

COMMITTEE REPORT
SENATE

FURTHER:

4/15/86

Date _____

Mr. President

The Committee on FINANCE considered SSSB 271

requiring resident hire on certain natural resource projects on state land; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
 new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

2/11/86

Date 4-14-86

Mr. President

The Committee on RESOURCES considered SSSB 271

requiring resident hire on certain natural resource projects on state land; efd.

and (a majority of the committee) ~~(the committee)~~ reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SSSB 271 (RES)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

Paul J. Zboroff strengthen penalties

W. L. [Signature] strengthen "

MEMBERS HAVING
OTHER RECOMMENDATIONS

Kirk Halford NO REC

Betty Faber King No Pass when amended

Austin Stungaloch
Chairman

Do Pass
Chairman recommendation

Offered: 4/15/86
Referred: Finance

Original sponsors: Josephson, Kerttula,
V. Fischer, et al

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 271 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring resident hire on certain natural
7 resource projects on state land; and providing for an
8 effective date."

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

10 * Section 1. AS 38 is amended by adding a new chapter to read:

11 CHAPTER 45. RESIDENT EMPLOYMENT PREFERENCE UNDER STATE LEASES.

12 Sec. 38.45.010. STATE POLICY. It is the policy of the state to
13 develop its natural resources to provide the maximum benefit to the
14 people of the state as required by the Constitution of the State of
15 Alaska. These benefits include employment opportunities in natural
16 resource development projects for residents qualified for the employ-
17 ment, as well as receipt of state revenue from the development.

18 Sec. 38.45.020. LEGISLATIVE FINDINGS. The legislature finds:

19 (1) the findings made in AS 36.10.005 continue to accurately
20 ly describe the social, economic, and employment situation in the
21 state;

22 (2) chronic unemployment can breed severe social problems
23 including alcoholism and domestic violence;

24 (3) the findings of the Department of Labor of the State of
25 Alaska in its report entitled "Nonresidents Working in Alaska; A
26 Special Study to Measure the Economic Impact of Nonresidents on
27 Alaska's Economy During Calendar Year 1984" support the need for a
28 resident hiring preference;

29 (4) there is a need for timely, accurate information on the
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COMMITTEE COPY

1 number of nonresident and resident workers in industries in the state;

2 (5) the state has a continuing interest in determining
3 whether indirect benefits, including employment opportunities, from
4 state expenditures, natural resource projects, and agreements concern-
5 ing the state's natural resources accrue to residents of the state or
6 to nonresidents;

7 (6) a major factor in the unemployment problem is the
8 failure of some employers engaged in the exploration, development, and
9 production of natural resources on state land, and under leases or
10 other agreements granted or permitted by the state, to employ state
11 residents;

12 (7) whereas at an earlier stage of the state's history it
13 was asserted that high unemployment in the state was due to cultural
14 and geographical migration barriers, the state now has many residents
15 who are qualified, trained, and available for employment in the explo-
16 ration, development, production, and extraction of natural resources
17 on state land;

18 (8) the state has made significant investments in training
19 programs and vocational education to help furnish industry with qual-
20 ified residents able to work in the development, exploration, produc-
21 tion, and extraction of natural resource products on state land;

22 (9) the state's investment in these training and education
23 programs will be of little avail unless state residents receive em-
24 ployment opportunities in natural resource projects on state land;

25 (10) employment of nonresidents displaces qualified resi-
26 dents from work in the development, exploration, production, and
27 extraction of natural resource products on state land; therefore, the
28 number of nonresidents hired for work on state land in the develop-
29 ment, exploration, production, and extraction of state resources is a

1 peculiar source of the unemployment problem now besetting the state;

2 (11) the number of state residents who are unable to find
3 work is considerably higher than is reflected by unemployment rates
4 based on nationally accepted measures;

5 (12) many rural state residents who wish to work do not seek
6 employment as frequently as necessary to meet federal definitions of
7 unemployment because of continuing lack of employment opportunities in
8 rural areas of the state.

9 Sec. 38.45.030. UNAVAILABILITY OF PREFERRED WORKERS. (a) An
10 employer subject to hiring requirements under this chapter may request
11 the Department of Labor to assist in locating qualified, eligible
12 employees. After receiving a request for assistance, the department
13 shall refer qualified, eligible, available residents to the employer
14 to fill the employer's hiring needs.

15 (b) If the department is unable to refer a sufficient number of
16 qualified, eligible, available residents able to perform the work, the
17 commissioner of labor may approve the hiring of residents who are not
18 eligible for preference and nonresidents for the balance of the re-
19 quest.

20 Sec. 38.45.040. EMPLOYEE QUALIFICATIONS. An employer shall
21 determine and judge the work qualifications of applicants for employ-
22 ment.

23 Sec. 38.45.050. REGULATIONS. The commissioner of labor shall
24 adopt regulations in accordance with AS 44.62 (Administrative Proce-
25 dure Act) to implement this chapter and encourage and require the
26 hiring of residents to the maximum extent permitted by law.

27 Sec. 38.45.060. RESIDENT HIRE REPORT. The attorney general and
28 the commissioner of labor shall report annually to the legislature and
29 the governor on the status of employment in the state, the effect of

1 nonresident employment on the employment of residents in the state,
2 and methods to increase resident hire. The report shall be submitted
3 by January 31 of each year.

4 Sec. 38.45.070. ELIGIBILITY FOR PREFERENCE. (a) A person is
5 eligible for an employment preference under this chapter if the person
6 certifies eligibility as required by the Department of Labor, is a
7 resident, and

8 (1) is receiving unemployment benefits under AS 23.30 or
9 would be eligible to receive benefits but has exhausted them;

10 (2) is not working and has registered to find work with a
11 public or private employment agency or a local hiring hall;

12 (3) is underemployed or marginally employed as defined by
13 the department; or

14 (4) has completed a job-training program approved by the
15 department and is either not employed or is engaged in employment that
16 does not use the skills acquired in the job-training program.

17 (b) An employer subject to a resident hiring requirement under
18 this chapter shall certify that persons employed as residents under
19 the preference were eligible for the preference at the time of hire.

20 Sec. 38.45.080. DETERMINATION OF UNDEREMPLOYED AREA. (a)
21 Immediately following a determination by the commissioner of labor
22 that a census area, economic region, or the state as a whole is an
23 underemployed area and for the next two fiscal years after the deter-
24 mination, qualified residents who are eligible under AS 38.45.070
25 shall be given preference in hiring for work on each natural resource
26 project on state land that is wholly or partially sited within the
27 area.

28 (b) The commissioner of labor shall determine the amount of work
29 that must be performed under this chapter by qualified residents who

1 were eligible for an employment preference under this chapter at the
2 time of hiring. In making this determination, the commissioner shall
3 consider the nature of the work, the classification of workers, avail-
4 ability of eligible residents, and the willingness of eligible resi-
5 dents to perform the work.

6 (c) The commissioner shall determine that a census area, econo-
7 mic region, or the state as a whole is an underemployed area if the
8 commissioner finds that

9 (1) the rate of unemployment within the area is substan-
10 tially higher than the national rate of unemployment;

11 (2) a substantial number of residents in the area have
12 experience or training in occupations that would be employed on a
13 natural resource project on state land;

14 (3) the lack of employment opportunities in the area has
15 contributed to serious social or economic problems in the area; and

16 (4) employment of workers who are not residents is a pecu-
17 liar source of the unemployment of residents of the area.

18 (d) The commissioner shall define the boundaries of a census
19 area or economic region within which a preference applies. In choos-
20 ing whether to apply a preference to a census area, economic region,
21 or the state as a whole, the commissioner shall apply the preference
22 to the smallest unit that will adequately address the problems identi-
23 fied by the findings.

24 Sec. 38.45.090. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-
25 TRESSED AREAS. (a) Immediately following a determination by the
26 commissioner that a census area or economic region of the state is an
27 economically distressed area, and for the next two fiscal years after
28 the determination, qualified residents of the area who are eligible
29 under AS 38.45.070 shall be given preference in hiring for at least 50

1 percent of employment on each natural resource project on state land
2 that is wholly or partially sited within the economically distressed
3 area.

4 (b) The commissioner shall determine that an area is an econom-
5 ically distressed area if the commissioner finds that

6 (1) the per capita income of residents is less than 90
7 percent of the per capita income of the United States as a whole or
8 the unemployment rate in the area exceeds the national rate of unem-
9 ployment by at least five percentage points;

10 (2) the lack of employment opportunities in the area has
11 substantially contributed to serious social or economic problems in
12 the area; and

13 (3) employment of workers who are not residents is a pecu-
14 liar source of unemployment of residents of the area.

15 (c) If the governor has declared an area to be an area affected
16 by an economic disaster under AS 44.33.285, then the preference for
17 residents of the area established under AS 44.33.285 - 44.33.310
18 supersedes the preference under this section.

19 (d) The commissioner shall define the boundaries of a census
20 area or economic region in which a preference applies. In choosing
21 whether to apply a preference to a census area or economic region,
22 the commissioner shall apply the preference to the smallest unit that
23 will adequately address the problems identified by the findings.

24 Sec. 38.45.100. INCORPORATION INTO CONTRACTS. (a) In order to
25 create, protect, and preserve the right of eligible qualified resi-
26 dents to employment in natural resource projects on state land, the
27 commissioner of natural resources shall incorporate into each con-
28 tract, lease, unitization agreement, or renegotiation of a contract,
29 lease or unitization agreement, provisions requiring compliance with

1 this chapter, regulations adopted under this chapter, and all later
2 amendments to this chapter or the regulations, and authorizing pen-
3 alties under AS 38.45.120 for failure to comply.

4 (b) The commissioner shall incorporate into each contract,
5 lease, unitization agreement, or renegotiation a requirement that the
6 contractor or lessee include in each contract with contractors or
7 subcontractors who will be operating on state land a provision requir-
8 ing compliance with this chapter, later amendments of this chapter,
9 regulations adopted under this chapter, and authorizing penalties
10 under AS 38.45.120.

11 Sec. 38.45.116. REPORTING PROVISIONS. An employer obligated to
12 meet resident hiring requirements under this chapter shall comply with
13 the reporting provisions that the commissioner of labor determines are
14 reasonably necessary to carry out this chapter. Except for statisti-
15 cal data, information concerning specific employees is confidential
16 and may not be released to the public by the department. However,
17 confidential employee information may be shared between departments
18 for purposes of this chapter.

19 Sec. 38.45.120. CIVIL PENALTY. (a) The Department of Labor may
20 conduct investigations and hearings to determine compliance with this
21 chapter. After a hearing, if the commissioner of labor finds that an
22 employer has wilfully failed to comply with this chapter, the commis-
23 sioner may impose a civil penalty in the amount of

24 (1) the lesser of \$5,000 or five percent of the compensa-
25 tion to the state under the project, lease, or agreement for the first
26 rejection of a qualified eligible applicant or other violation of this
27 chapter;

28 (2) the lesser of \$10,000 or 10 percent of the compensation
29 to the state under the project, lease, or agreement for the second and

1 each subsequent rejection or other violation of this chapter.

2 (b) In addition to the imposition of other penalties under this
3 section, if the Department of Labor finds that an employer has wil-
4 fully rejected a qualified eligible applicant or terminated a quali-
5 fied eligible employee in violation of this chapter, the department
6 may require the employer to pay the person the amount of wages the
7 person lost and may require additional amounts to reimburse the person
8 for actual expenses incurred as a result of the wrongful action.

9 (c) The commissioner may impose the penalties under this section
10 on an employer only if the employer itself has failed to comply with
11 this chapter, later amendments of this chapter, or regulations adopted
12 under this chapter, or if the employer has failed to incorporate into
13 its contracts the provision required under AS 38.45.100(b).

14 (d) The Department of Labor, in addition to the imposition of
15 penalties under this section, may seek injunctive relief against a
16 person who is not in compliance with this chapter and to enforce
17 penalties imposed under this section.

18 Sec. 38.45.130. PENALTIES FOR APPLICANTS AND EMPLOYERS. (a) A
19 person who makes a false sworn statement in connection with a certi-
20 fication of eligibility for an employment preference under this chap-
21 ter is subject to criminal prosecution for perjury as provided in
22 AS 11.56.200.

23 (b) A person who makes an unsworn falsification, with the intent
24 to mislead a public servant in the performance of a duty, in connec-
25 tion with a certification of eligibility for an employment preference
26 under this chapter, is subject to criminal prosecution as provided in
27 AS 11.56.210.

28 (c) In addition to criminal penalties imposed by state law, if a
29 person is convicted of a crime in connection with a false statement

1 made in a certification required under AS 38.45.060, and the conviction
2 is not reversed, that person shall forfeit all future rights to
3 eligibility for an employment preference under this chapter.

4 Sec. 38.45.260. APPLICABILITY OF CHAPTER. This chapter applies
5 to all natural resource projects on state land. The preference applies
6 only to employment that is performed directly for an employer.

7 Sec. 38.45.250. DEFINITIONS. In this chapter

8 (1) "available" means physically present at the place of
9 hire at the time requested by the employer;

10 (2) "employer" means a person other than the state who is a
11 party to a contract, lease, or unitization agreement for a natural
12 resource project on state land and the person's affiliate, principal,
13 subsidiary, contractor, or subcontractor if the activity of the affiliate,
14 principal, subsidiary, contractor, or subcontractor is performed
15 on state land;

16 (3) "natural resource project on state land" means a project
17 authorized by a contract, lease, unitization agreement, or a
18 renegotiation of a contract, lease, or unitization agreement for
19 exploration, development, extraction or production of oil and gas,
20 leasable mineral, or timber resources if the state is a party to the
21 contract, lease or unitization agreement and the project is performed
22 in whole or in part on state land;

23 (4) "qualified resident" means a resident who possesses the
24 requisite education, training, skills, or experience to perform the
25 work;

26 (5) "resident" means a person who establishes residency
27 under AS 01.10.055;

28 (6) "state land" means all land, including shore, tide, and
29 submerged land, belonging to or acquired by the state.

1 * Sec. 2. AS 38.45, enacted in sec. 1 of this Act, applies to a lease,
2 unitization agreement, or contract for the development of oil and gas,
3 leasable mineral, or timber resources entered into on or after the effec-
4 tive date of this Act and to a renegotiation of the lease, unitization
5 agreement, or contract. AS 38.45 applies to the renegotiation on or after
6 the effective date of this Act of a lease, unitization agreement, or con-
7 tract entered into before the effective date of this Act if the renegotia-
8 tion results in a major change in the duties of a party.

9 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
10 10.070(c).
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Introduced: 2/11/86
Referred: Resources and
Finance

BY JOSEPHSON, KERTTU, V.FISCHER,
ZHAROFF, BENNETT, ROMEY, ELIASON,
FERGUSON, SACKETT, RAY, COGHILL,
ZIEGLER, FAHRENKAMP, STURGULEWSKI
AND KELLY

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 271

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring resident hire on certain natural
7 resource projects on state land; and providing for an
8 effective date."

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

10 * Section 1. AS 38 is amended by adding a new chapter to read:

11 CHAPTER 45. RESIDENT EMPLOYMENT PREFERENCE UNDER STATE LEASES.

12 Sec. 38.45.010. STATE POLICY. It is the policy of the state to
13 develop its natural resources to provide the maximum benefit to the
14 people of the state as required by the Constitution of the State of
15 Alaska. These benefits include employment opportunities in natural
16 resource development projects for residents qualified for the employ-
17 ment, as well as receipt of state revenue from the development.

18 Sec. 38.45.020. LEGISLATIVE FINDINGS. The legislature finds:

19 (1) the findings made in AS 36.10.005 continue to accurately
20 ly describe the social, economic, and employment situation in the
21 state and specifically apply to employment on natural resources pro-
22 jects on state land;

23 (2) chronic unemployment breeds severe social problems
24 including alcoholism and domestic violence;

25 (3) the findings of the Department of Labor of the State of
26 Alaska in its report entitled "Nonresidents Working in Alaska; A
27 Special Study to Measure the Economic Impact of Nonresidents on
28 Alaska's Economy During Calendar Year 1984" support the need for a
29 resident hiring preference;
S

1 (4) a major factor of increasing importance in the unem-
2 ployment problem is the failure of employers engaged in the explore-
3 tion, development, and production of natural resources on state land,
4 and under leases or other agreements granted or permitted by the
5 state, to employ state residents;

6 (5) whereas at an earlier stage of the state's history it
7 was asserted that high unemployment in the state was due to cultural
8 and geographical migration barriers, the state now has many residents
9 who are qualified, trained, and available for employment in the explo-
10 ration, development, production, and extraction of natural resources
11 on state land, but who are not presently employed because an increas-
12 ing amount of the work they are qualified to perform is being per-
13 formed on state land by nonresidents;

14 (6) the state has made significant investments in training
15 programs and vocational education to help furnish industry with qual-
16 ified residents able to work in the development, exploration, produc-
17 tion, and extraction of natural resource products on state land;

18 (7) unless the trend towards hiring nonresidents is re-
19 versed, the state's investment in these training and education pro-
20 grams will be of little avail, the state policy of maximizing benefits
21 from natural resource development will be thwarted, and the state will
22 suffer the burdens wrought by increasing demands for public assistance
23 and other state services from unemployed residents and their families;

24 (8) employment of nonresidents displaces qualified resi-
25 dents from work in the development, exploration, production, and
26 extraction of natural resource products on state land and from work in
27 service occupations on state land that directly support the develop-
28 ment, exploration, and production activities; therefore, the growing
29 number of nonresidents hired for work on state land, in the

1 development, exploration, production, and extraction of state re-
2 sources, is a peculiar source of the unemployment evil now besetting
3 the state:

4 (9) state policies favoring stable levels of taxation have
5 been predicated upon assurances from the natural resource industries
6 that state residents would receive employment opportunities in the
7 exploration, development, and production of natural resources from
8 state-owned land, but data show that these assurances, and the expect-
9 ations they created, are not being fulfilled.

10 Sec. 38.45.030. ELIGIBILITY FOR PREFERENCE. (a) The Department
11 of Labor shall certify a person as eligible for a hiring preference
12 under this chapter if the person applies on a form provided by the
13 department, is a resident, and

14 (1) is receiving unemployment benefits under AS 23.30 or
15 would be eligible to receive benefits but has exhausted them;

16 (2) is not working and has registered with a public or
17 private employment agency or a local hiring hall;

18 (3) is underemployed or marginally employed as determined
19 under regulations adopted by the department; or

20 (4) has completed a job-training program approved by the
21 department.

22 Sec. 38.45.040. RESIDENT HIRE REQUIREMENTS. (a) An employer
23 shall meet the resident hiring requirements established by the commis-
24 sioner of labor under this section on a natural resource project on
25 state land that is subject to a hiring preference under AS 38.45.060.
26 An employer may not discriminate against qualified residents in em-
27 ployment on a natural resource project on state land.

28 (b) The commissioner of labor shall determine the amount of work
29 that must be performed under this chapter by eligible qualified

1 residents on a natural resource project on state land. In making this
2 determination, the commissioner shall consider the nature of the work,
3 the classification of workers, availability of eligible residents, and
4 the willingness of eligible residents to perform the work. The com-
5 missioner shall require an employer to make the maximum feasible
6 effort to hire eligible qualified residents for jobs on state land.

7 (c) During the three fiscal years following a determination by
8 the commissioner of labor that a census area, census subarea, or an
9 economic region of the state is an economically distressed area, at
10 least 50 percent of resident employment preference under this section
11 on each project that is wholly or partially sited within the
12 economically distressed area shall consist of residents of the area.
13 The 50 percent preference applies to worker hours on a craft-by-craft
14 basis.

15 (d) The commissioner of labor shall determine that an area is an
16 economically distressed area under (c) of this section if the commis-
17 sioner finds that

18 (1) the average annual family income of residents of the
19 area is below the adjusted poverty guidelines of the Federal Depart-
20 ment of Health and Human Services or that the unemployment rate in the
21 area exceeds the national rate of unemployment by at least five per-
22 centage points; and

23 (2) employment of workers who are not residents of the area
24 is a contributing cause of unemployment of residents of the area.

25 (e) If the governor has declared an area to be an area affected
26 by an economic disaster under AS 44.33.285, then the preference for
27 residents of the area established under AS 44.33.285 - 44.33.310
28 supercedes the preference under this section.

29 (f) In order to create, protect, and preserve the right of

1 eligible qualified residents to employment in natural resource proj-
2 acts on state land, the commissioner of natural resources shall incor-
3 porate into each lease, unitization agreement, or renegotiation of a
4 lease or agreement, provisions requiring compliance with this chapter,
5 regulations adopted under this chapter, and all later amendments to
6 this chapter or the regulations, and authorizing penalties under
7 AS 38.45.080 for failure to comply. The commissioner shall incorpo-
8 rate into each lease, agreement, or renegotiation a requirement that
9 the lessee include in each contract under the lease or agreement with
10 contractors or subcontractors who will be operating on state land a
11 provision requiring compliance with this chapter, later amendments of
12 this chapter, regulations adopted under this chapter, and authorizing
13 penalties under AS 38.45.080.

14 (g) An employer subject to resident hiring requirements under
15 this chapter may request the Department of Labor to assist in locating
16 eligible, qualified, available employees. After receiving a request
17 for assistance, the department shall refer eligible, qualified, avail-
18 able residents to the employer to fill the employer's hiring needs.
19 If the department is unable to refer a sufficient number of eligible
20 residents, it may approve the hiring of residents who are not eligible
21 for preference and nonresidents for the balance of the request.

22 Sec. 38.45.050. REPORTING PROVISIONS. An employer obligated to
23 meet resident hiring requirements under this chapter shall comply with
24 the reporting provisions that the commissioner of labor determines are
25 reasonably necessary to carry out this chapter.

26 Sec. 38.45.060. APPLICABILITY OF CHAPTER. This chapter applies
27 to all natural resource projects on state land. The Department of
28 Labor shall determine the extent of the resident hiring preference for
29 each project under AS 38.45.040. The preference applies only to

1 employment that is performed directly for an employer.

2 Sec. 38.45.070. REGULATIONS AND HEARINGS. (a) The Department
3 of Labor and the Department of Natural Resources shall adopt regula-
4 tions to implement this chapter. The Department of Labor shall adopt
5 regulations prohibiting discrimination against qualified residents in
6 employment on a natural resource project on state land. Regulations
7 and proceedings under this chapter are subject to the Administrative
8 Procedure Act (AS 44.62) except as provided in (b) of this section.

9 (b) An employer shall determine and judge the work qualifica-
10 tions of applicants for employment. An applicant who has been reject-
11 ed or an employee who has been terminated from employment may, within
12 30 days after the rejection or termination, request a hearing before
13 the Department of Labor to determine whether the employer violated
14 this chapter in denying the application or terminating the employment.
15 The Department of Labor shall hold a hearing on the question within 20
16 days of receipt of the request unless the applicant or employee re-
17 quests a longer period of time.

18 (c) The Department of Labor may conduct investigations and
19 hearings to determine compliance with this chapter. If the commis-
20 sioner of labor finds that an employer has willfully failed to comply
21 with this chapter, the commissioner may certify the finding to the
22 Department of Natural Resources.

23 Sec. 38.45.080. PENALTIES. (a) If the Department of Labor
24 finds that an employer has rejected a qualified applicant or termi-
25 nated a qualified employee from employment in violation of this
26 chapter, the department may require the employer to pay the person
27 three times the amount of wages the person lost and may require addi-
28 tional amounts if the person's actual expenses incurred as a result of
29 the wrongful action exceeded the triple wages assessed. Either party

1 may appeal the department's decision under this section to the su-
2 perior court. The court may hear the appeal de novo.

3 (b) The Department of Natural Resources, upon certification of
4 noncompliance by the Department of Labor under AS 38.45.070, may
5 investigate and conduct hearings. If it finds wilful noncompliance,
6 the department may impose on the employer any of the following pen-
7 alties:

8 (1) increase the rent or other forms of compensation re-
9 ceived by the state under the project lease or agreement by a factor
10 of no more than 10; the increase may not exceed \$100,000;

11 (2) require that all or a portion of project operations
12 cease;

13 (3) remove, for an appropriate period of time not to exceed
14 three years, the eligibility of the employer to contract with the
15 state or any of its political subdivisions; or

16 (4) require a noncompliance payment in liquidated damages
17 to the state in an amount equal to seven and one-half times the number
18 of hours required but not worked by eligible qualified residents
19 multiplied by the going wage or salary rate for the particular job or
20 activity involved.

21 (c) The commissioner may impose the penalties under (b)(1) and
22 (2) of this section on a lessee only if the lessee itself has failed
23 to comply with this chapter or incorporate into the contract with the
24 violator a provision requiring compliance with this chapter.

25 Sec. 38.45.090. INJUNCTIVE RELIEF. The Department of Labor or
26 the Department of Natural Resources, in addition to the imposition of
27 penalties under AS 38.45.080, may seek injunctive relief against a
28 person who is not in compliance with this chapter. The Department of
29 Natural Resources may seek injunctive relief to enforce penalties

1 imposed under AS 38.45.080.

2 Sec. 38.45.100. DEFINITIONS. In this chapter

3 (1) "employer" means a person other than the state who is a
4 party to a lease or agreement for a natural resource project on state
5 land and includes the person's affiliate, principal, subsidiary,
6 contractor, or subcontractor if the activity of the affiliate, princi-
7 pal, subsidiary, contractor, or subcontractor is performed on state
8 land;

9 (2) "natural resource project on state land" means a con-
10 tract, lease, unitization agreement, or a renegotiation of a contract,
11 lease, or agreement for exploration, development, extraction or pro-
12 duction of oil and gas, mineral, or timber resources if the state is a
13 party to the contract, lease or agreement and the project is performed
14 in whole or in part on state land;

15 (3) "qualified resident" means a resident who possesses the
16 requisite education, training, skills, or experience to perform the
17 work;

18 (4) "resident" means a person who

19 (A) except for military service, has been physically
20 present in the state for a period of 30 days immediately before
21 the time the person enters into a contract of employment on a
22 natural resource project on state land; and

23 (B) shows by all attending circumstances the intention
24 to permanently reside in this state.

25 * Sec. 2. AS 38.45, enacted in sec. 1 of this Act, applies to a lease,
26 unitization agreement, or contract for the development of oil and gas,
27 mineral, or timber resources entered into on or after the effective date of
28 this Act and to a renegotiation of the lease, agreement, or contract.
29 AS 38.45 applies to the renegotiation on or after the effective date of

1 this Act of a lease, agreement, or contract entered into before the effective
2 date of this Act if the renegotiation results in a major change to the
3 duties of a party.

4 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
5 10.070(c).

ALASKA STATE LEGISLATURE

...14th Legislature ..2nd.. Session

SPONSOR SUBSTITUTE
SENATE BILL..... NO. ...271.

By JOSEPHSON, KERTTULA,
V. FISCHER, ZHAROFF, BENNETT,
ROBEY, ELIASON, FERGUSON,
SACKETT, RAY, COGHILL,
ZIEGLER, FAHRENKAMP,
STURGULEWSKI, KELLY

"An Act requiring resident hire
on certain natural resource
projects on state land; and
providing for an effective
date."

Introduced in the Senate .2/11..., 1986.

HISTORY IN THE SENATE

1986

Read first time and referred
to Committee on

2 1

Resources & Finance

4 15

Reported back with *Resources*
recommendation that *replace w/CS*
5 do pass, 2 strengthen penalties
1 do pass and, 1 no vote Fin.
File

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
Sent to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Read first time and referred
to Committee on

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 Speaker
Returned to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSSS SB 271 (Resources)
 Title : "An Act requiring resident hire
 on certain natural resources projects.."

Sponsor : Josephson, Kerttula, et. al.
 Requestor : Senate Finance
 Date of Request : 4/16/86

FISCAL DETAIL

Agency Affected : Labor
 BRU : Labor Standards and Safety

Components : Wage and Hour

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES			115.6	231.4	231.4	231.4
TRAVEL			26.0	43.7	45.4	47.2
CONTRACTUAL			6.0	12.5	7.1	13.5
SUPPLIES			1.8	3.6		3.8
EQUIPMENT			9.6	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	159.0	291.2	293.5	295.9

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND	0	0	159.0	291.2	293.5	295.9
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	159.0	291.2	293.5	295.9

POSITIONS :

FULL-TIME	0	0	6.0	6.0	6.0	6.0
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Robert J. Bacolas Sr. Phone : 465-4870
 Division : Labor Standards and Safety Date : 4/18/86

Approved by Commissioner : Jim Robison Date : 4/18/86
 Agency : Labor

Distribution (by Agency preparing fiscal note) :

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSSS SB271 (Resources)

Under the provisions of this bill, the department would be responsible for monitoring, investigating, and enforcing resident hire on natural resource projects. The majority of the investigative/enforcement activity would not begin until 1988 when the annual report on resident hire is published and the Commissioner designates those areas or regions of the state in which a hiring preference applies. The following resources would, therefore, be needed beginning in FY 88:

	2 Wage & Hour Investigator I's - 6 months (Anchorage)	2 Wage & Hour Technicians 6 months (Anchorage)	1 Wage & Hour Investigator I 6 months (Fairbanks)	1 Clerk Typist III 6 months (Anchorage)	<u>Total</u>
Personal Svcs	43.8	33.6	25.2	13.0	115.6
Travel	8.5	0	7.5	0	16.0
Contractual	2.0	2.0	1.0	1.0	6.0
Commodities	.5	.5	.3	.5	1.8
Equipment	<u>3.2</u>	<u>3.2</u>	<u>1.6</u>	<u>1.6</u>	<u>9.6</u>
	58.0	39.3	35.6	16.1	149.0

The positions would work 6 months in FY 88 (beginning January 1, 1988) and be full time from then on. Also, an additional \$10,000 in travel expense would be incurred by existing positions for travel to the North Slope.

Assumptions

1. The Commissioner will designate those areas or regions of the State where hiring preference applies by January 1, 1988.
2. Inflation on non-personal services items would be 4% per year.

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : _____

REQUEST

Bill/Resolution No. : CSSSSB 271 (Resources)
 Title : "An Act requiring resident hire
 on certain natural resources projects..."

Sponsor : Josephson, Kerttula, et al
 Requestor : Senate Finance
 Date of Request : 4/16/86

FISCAL DETAIL

Agency Affected : Labor
 BRU : Administrative Services

Components : Special Services

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		133.6	133.6	133.6	133.6	133.6
TRAVEL		0	0	0	0	0
CONTRACTUAL		193.7	204.0	242.2	241.1	247.2
SUPPLIES		1.2	1.2	1.3	1.3	1.4
EQUIPMENT		4.0	.8	.9	.9	1.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	332.5	339.6	378.0	376.9	383.2

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND	0	332.5	339.6	378.0	376.9	383.2
FEDERAL FUNDS						
OTHER						
TOTAL	0	332.5	339.6	378.0	376.9	383.2

POSITIONS :

FULL-TIME		3	3	3	3	3
PART-TIME		1	1	1	1	1
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: *Bum-Budy for* Judy Knight, Director Phone : 465-2720
 Division : Administrative Services Date : 4/18/86

Approved by Commissioner *Jim Robison* Jim Robison Date : 4/18/86
 Agency : Labor

Distribution (by Agency preparing fiscal note) :

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

CONTINUATION OF FISCAL NOTE ANALYSIS
Bill/Resolution No. CSSSSB 271 (Resources)

This legislation was carefully drafted to maximize its chances in any future court challenge. This resulted in a complex set of area designations and determinations of resident preferences that are based on objective statistics. To make the determinations and designations specified in this legislation will require this department to collect and analyze extensive occupational information by area resident status. Our assumptions are as follows:

1. An annual report designating underemployment areas would be completed by January 31 of each year beginning in 1987.
2. On-going collection of occupational titles would be required from employers, and extensive computer matching would be necessary to determine residency status.
3. The collection of occupational titles from firms will be phased in over a three year period. Industries identified as having the highest dollar payments to nonresidents in 1984 would be targeted first:

First Year construction, oil and gas mining, and food processing;

Second Year all first year industries plus business services, local government, miscellaneous services, eating and drinking places, air transportation, and state government; and

Third Year all industries.

4. In addition to the occupational information, reporting of the residency status by industry and area would be necessary.
5. Information to make the determinations of Sec. 38.45.070 (b) will be developed as follows:

Nature of the work The Standard Industrial Classification (SIC) coding will be used for all information related to the employers' type of business. This will hold down costs and permit aggregate comparisons.

Classification of workers Nationally accepted occupational classification coding will be used for all information related to individuals' occupations.

Availability of eligible residents Our analysis will consider registered applicants in Job Service, employment, job turnover, unemployment and training program completers by occupation.

Willingness of eligible residents to perform the work This will be done in two stages:

- a) Estimates of eligible and available residents within each economic region will be evaluated relative to the projected employment for relevant occupations.
 - b) all occurrences where the Department is unable to assist an employer to place a qualified resident will be recorded as to the specific occupation and area. Subsequent cases will not require resident placement in that occupation and area until sufficient data exists to indicate that qualified residents are available.
6. Resident hire legislation requires comprehensive statistical support of the displacement of residents by nonresident workers, and the resulting social effects.
 7. Extensive mainframe data processing costs will be required. No one computer file has all of the information necessary for the analysis required by this legislation. Records of several files, with as many as 2 million records (UI wage items), have to be matched together by Social Security Number (SSN), and information on occupational titles and Certified Payrolls entered and edited.

An additional field for the occupational title will be added to all UI wage item reports from employers. As detailed in item #3 reporting from industries will be phased in. Costs are estimated to be \$20,000 in FY 87, \$40,000 in FY 88, and \$62,000 in FY 89. Increases in FY 90 and FY 91 are anticipated due to inflation and a greater number of firms.

Programming costs include: modification of programs used last year (\$2,000); development of new applications in FY 87 (\$25,500); and system maintenance, and analytical extractions (\$2,000) in all years. Estimated total programming costs are \$29,500 for FY 87 (983 hours @ \$30 per hour including all benefits and overhead), dropping to \$4,500 (150 hours @ \$30 per hour) in FY 88, and experiencing small inflationary costs in later years.

Primary processing will be done on the DOL computer. Costs are allocated to projects based upon use, in conformance with federal and state accounting requirements. Total data processing operations costs are estimated at \$116,000 in FY 87. Primarily due to the phase in of additional industries' occupational titles costs will increase to \$131,000 in FY 88, \$146,000 in FY89, \$149,000 in FY 90, and \$152,000 in FY 91.

Microcomputers will be used for analysis and editing when possible to minimize costs.

8. Printing costs for the annual report are estimated at \$4,500 the first year with inflationary increases in FY 90 and FY 91. This is based upon an assumption of 1,500 copies at \$3 each.

9. Long distance phone calls will be done on a daily basis to verify the accuracy of occupational titles. The greatest number of calls will occur in the first year that an industry is surveyed. After the first three years the costs would drop.

Additional calls will be necessary each year to address the annual report requirement to determine "methods to increase resident hire." High nonresident employment by occupation, industry, and/or area will be identified in our statistical work. Calls will be made to follow up on the reasons for the high nonresident employment and solutions to increase resident hiring will be sought.

10. As currently drafted the statistical and analytical requirements of Senate Bill 271 closely parallel that of House Bill 466, and its Senate complement 367. If both pieces of legislation are enacted our fiscal note for House Bill 466 would also cover all of our costs for Senate Bill 271.

Summary of
Nonpersonal Services by Year

	FY 87	FY 88	FY 89	FY 90	FY 91
Travel	0	0	0	0	0
Key Entry	20,000	40,000	62,000	64,000	66,000
DP Operations	116,000	131,000	146,000	149,000	152,000
DP Applications	29,500	4,500	4,700	4,900	5,100
Printing	4,500	4,500	4,500	4,700	5,000
Long Distance Phone Service	12,000	12,500	13,000	6,000	6,200
Equipment Lease	8,000	8,300	8,700	9,000	9,400
Equipment Maintenance	800	800	900	900	900
Training, shipping, & Misc.	2,900	2,400	2,400	2,600	2,600
Total Contractual	193,700	204,000	242,200	241,100	247,200
Supplies	1,200	1,200	1,300	1,300	1,400
Equipment (desk, chair, software)	4,000	800	900	900	1,000

Position Title Labor Economist III			No. of Positions 1	Range/Step 18B	Barg. Unit GGLI	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12.0	RP Number	Location Juneau		Election District	Leg.		
Type of Expenditure			Justification					
1	2	Amount	This position will have primary responsibility for the analysis of data, the preparation of the annual resident hire report, and the determination of the amount of work required in underemployed areas. Specifically, the duties would include:					
Salary	40,188		1) Coordinate the collection and monitor the validity of relevant resident hire related statistics from other agencies.					
Benefits	12,283		2) Coordinate the updating and crossmatching of resident hire related data files with the analyst programmer.					
Premium Pay			3) Develop, collect and analyze data that are required to determine the amount of work to be done by nonresidents in underemployed areas.					
Other			4) Supervise the statistical technician who will collect new data for the determination of work by nonresidents, and develop the occupational code conversion program.					
Total Personal Services		52,471	5) Analyze microcomputer resident hire data bases to generate resident hire related tables and reports.					
Travel		0	6) Supervise the Statistical Clerk that will prepare the basic resident hire data tables for the report.					
Contractual		3,600	Contractual services costs include equipment lease, training, and other miscellaneous items.					
Commodities		365						
Equipment		1,400						
Other								
Total Cost		57,836						
Receipt Code	Funding Source							
	Federal Receipts	1002						
	G. F. Match	1003						
	General Funds	1004	57,836					
	I-A Receipts	1005						
	Program Receipts	1028						
	CIP Receipts	1061						
	Other							
For B&M Use Only Key Number								

**Request For
New Position**

Agency Labor
 BRU Administrative Services
 Component Special Services

Page 5 of 8
 Revised Date

FY 87

Position Title Statistical Technician I			No. of Positions 1	Range/Step 12B	Barg. Unit GSU	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12	RP Number	Location Juneau		Election District	Leg.		
Type of Expenditure			Justification					
1		2	3					
Salary		26,592	<p>This position will have primary responsibility for assisting the Labor Economist III with the collection, and formulation of data for the resident hire report and for the determination of the amount of work to be done by nonresidents. This position will be heavily involved in the quality control of data collected. Specifically, the duties would include:</p> <ol style="list-style-type: none"> 1) Collect and edit data to be used to analyze labor supply, and labor shortage of Alaska workers; collect and edit data on social variables to be correlated to the impact of unemployment. 2) Create and use quality control look up tables to ensure all data are properly coded; this includes industry, occupation, and area codes. 3) Use the microcomputer to load information into spreadsheets to show the occupational displacement of residents by nonresidents. 4) Prepare and update tables of economic information by resident status. <p>Contractual services costs include phone, equipment lease, training, etc.</p>					
Benefits		9,152						
Premium Pay								
Other								
Total Personal Services			35,744					
Travel								
Contractual			3,600					
Commodities			365					
Equipment			1,300					
Other								
Total Cost			41,009					
Receipt Code		Funding Source						
		Federal Receipts 1002						
		G. F. Match 1003						
		General Funds 1004		41,009				
		I-A Receipts 1005						
		Program Receipts 1028						
		CIP Receipts 1061						
		Other						
For B&M Use Only Key Number _____								

**Request For
New Position**

Agency Labor
 BRU Administrative Services
 Component Special Services

Page 7 of 8
 Revised Date _____

FY 87

Position Title Statistical Clerk			No. of Positions 1	Range/Step 10B	Barg. Unit GGU	Gov.	Approv.	Disapp.	
Time Status PFT	Staff Months 12.0	RP Number	Location Juneau	Election District 4	Leg.				
Type of Expenditure			Justification						
		Amount	<p>This position will work on the quality control of occupational titles which would be submitted by employers each quarter. Specifically, the duties would be:</p> <ol style="list-style-type: none"> 1. Review detailed edit listings. 2. Update edit data files. 3. Call employers for clarification when necessary. 4. Correct occupational titles. 5. Prepare computer summaries of results. <p>Contractual costs for this position include phone, training, and other miscellaneous items.</p>						
1	2	3							
Salary	23,580								
Benefits	8,458								
Premium Pay									
Other									
Total Personal Services		32,038							
Travel		0							
Contractual		3,600							
Commodities		365							
Equipment		1,300							
Other									
Total Cost		37,303							
Receipt Code	Funding Source								
	Federal Receipts	1002							
	G. F. Match	1003							
	General Funds	1004							37,303
	I-A Receipts	1005							
	Program Receipts	1028							
	CIP Receipts	1061							
	Other								
For B&M Use Only Key Number _____									

**Request For
New Position**

Agency Labor
 BRU Administrative Services
 Component Special Services

Page 8 of 8
 Revised Date _____

FY 87

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS SB 271 (L&C)
 Title: "An act requiring resident hire on nat. resource proj. st. lands"
 Sponsor: Josephson, et. al.
 Requestor: Senate Resources
 Date of Request: 4/30/85

FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Labor Standards & Safety Wage & Hour Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		111.9	115.8	239.1	247.5	256.1
200 TRAVEL		17.0	18.0	50.3	53.3	56.5
300 CONTRACTUAL		31.9	28.5	59.9	63.5	67.3
400 SUPPLIES		2.0	2.1	3.9	4.1	4.4
500 EQUIPMENT		14.8	0	5.4	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		177.6	164.4	358.6	368.4	384.3

CAPITAL						
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		177.6	164.4	358.6	368.4	384.3
FEDERAL FUNDS						
OTHER						
TOTAL		177.6	164.4	358.6	368.4	384.3

POSITIONS:

FULL-TIME		3	3	6	6	6
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert J. Bacolas, Sr. Phone: 465-4870
 Division: Labor Standards & Safety Date: 4/30/85
 Approved by Commissioner: Jim Robison Date: 4/30/85
 Agency: Labor

Distribution (by Agency preparing fiscal note):

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

7/1/84

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA
THE FOURTEENTH LEGISLATURE
BILL/RESOLUTION NO.: CS SB 271 (L&C)
TITLE: "An Act requiring resident hire under certain natural resource
projects on state lands"
AGENCY AFFECTED: Department of Labor

In order to carry out the duties of this bill the Department of Labor would require the following resources:

FYs 86 and 87

Two Wage and Hour Investigators I and one Clerk Typist III would be required to carry out the monitoring activities. Costs associated with these positions are detailed on the attached new position request forms.

In addition to these costs, there would be a one time expense of \$15,000 for computer equipment and software to capture residency information.

FYs 88 and beyond

The Prudhoe and Kuparuk unit agreements will possibly be renegotiated this year at which time these leases would be covered by the provisions of this bill. An additional Wage and Hour Investigator and two Wage and Hour Technicians will be required. The costs associated with these positions is summarized below:

	W&H Tech. Anchorage	W&H Tech. Anchorage	W&H Invest. I Fairbanks
Personal Service	34.4	34.4	50.3
Travel	0	0	15.6
Contractual	9.4	9.4	10.9
Commodities	.6	.6	.6
Equipment	<u>1.8</u>	<u>1.8</u>	<u>1.8</u>
	46.2	46.2	79.2

Also, an additional \$15,000 in travel expense would be incurred by existing positions for travel to the North Slope.

Assumptions

- 1) The major unitization agreements (Prudhoe Bay and Kuparuk) will not be covered by this bill until FY 88 when the agreements are renegotiated.
- 2) Inflation will be 3.5% for personal service and 6% for non personal service items.

1	Position Title Wage & Hour Investigator I	Range/Step 16A	Barg. Unit GGU	Form 12 Page/Line	GOV.	APPROV.	DISAPP.
2	Type of Position PFT	Staff Months 12	RP Number	PCN Number	BRU Priority	Location Anchorage	Election District LEG.
3	CONTINUATION LEVEL	ADDITION		JUSTIFICATION			
4	Type of Expenditure	Amount		<p>This position would monitor new or re-negotiated oil and gas leases and other natural resources projects on state land to ensure compliance with resident hire laws.</p> <p>The position would interact with the Department of Natural Resources and industry contacts to establish an effective monitoring procedure.</p> <p>Travel costs are to establish monitoring procedures and for monitoring compliance with resident hire law. Contractual costs include rent, \$3,600; indirect \$3,890; and other average expenses of \$2,000. Commodities of \$500 and one-time equipment costs of \$1,600 are also included.</p>			
	1	2	3				
	PERSONAL SERVICES						
5	Salary	32,424					
6	Benefits	5,401					
7	Supplemental Benefits	1,987					
8	Fixed Benefits	2,735					
9	TOTAL PERSONAL SERVICES	01	42,547				
10	Travel	02	8,500				
11	Contractual	03	9,490				
12	Commodities	04	500				
13	Equipment	05	1,600				
14	Other						
15	TOTAL COST		62,637				
	RECEIPT CODE	FUNDING SOURCE					
16		Federal Receipts	1002				
17		G.F. Match	1003				
18		General Funds	1004				
19		I-A Receipts	1005				
20		Program Receipts	1028				
21		Other					
			62,637				

For M&B Use Only

4A Key Number - - - - -

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage & Hour Administration

FY 86

Page 1 of 3

Revised Date

LEG:F:

1	Position Title Wage & Hour Investigator I			Range/Step 16A	Barg. Unit GGU	Form 12 Page/Line	GOV.	APPROV.	DISAPP.
2	Type of Position PFT	Staff Months 12	RP Number	PCN Number	BRU Priority	Location Anchorage	Election District	LEG.	
3	CONTINUATION LEVEL			ADDITION		JUSTIFICATION			
4	Type of Expenditure			Amount					
	1	2	3						
	PERSONAL SERVICES								
5	Salary	32,424							
6	Benefits	5,401							
7	Supplemental Benefits	1,987							
8	Fixed Benefits	2,735							
9	TOTAL PERSONAL SERVICES	01	42,547						
10	Travel	02	8,500						
11	Contractual	03	9,490						
12	Commodities	04	500						
13	Equipment	05	1,600						
14	Other								
15	TOTAL COST		62,637						
	RECEIPT CODE	FUNDING SOURCE							
16		Federal Receipts	1002						
17		G.F. Match	1003						
18		General Funds	1004	62,637					
19		I-A Receipts	1005						
20		Program Receipts	1028						
21		Other							
For M&B Use Only									
4A Key Number _____									

This position would monitor new or re-negotiated oil and gas leases and other natural resources projects on state land to ensure compliance with resident hire laws.

The position would interact with the Department of Natural Resources and industry contacts to establish an effective monitoring procedure.

Travel costs are to establish monitoring procedures and for monitoring compliance with resident hire law. Contractual costs include rent, \$3,600; indirect \$3,890; and other average expenses of \$2,000. Commodities of \$500 and one-time equipment costs of \$1,600 are also included.

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor
PROGRAM Worker Protection
BRU Labor Standards & Safety
COMPONENT Wage & Hour Administration

FY 86

Page 2 of 3
Revised Date _____

LEG:F:

1	Position Title Clerk Typist III			Range/Step 8A	Barg. Unit GGU	Form 12 Page/Line	GOV.	APPROV.	DISAPP.
2	Type of Position PFT	Staff Months 12	PP Number	PCN Number	BRU Priority	Location Anchorage	Election District	LEG.	
3	CONTINUATION LEVEL			ADDITION		JUSTIFICATION			
4	Type of Expenditure		Amount			<p>This clerical position would provide typing, filing, and data entry under the provisions of this bill.</p> <p>Contractual costs include rent, \$3,600; indirect \$2,348, and other average expenses of \$2,000. Commodities of \$1,000 and one-time equipment costs of \$1,600 are also included.</p>			
	1	2	3						
	PERSONAL SERVICES								
5	Salary		19,572						
6	Benefits		3,261						
7	Supplemental Benefits		1,200						
8	Fixed Benefits		2,735						
9	TOTAL PERSONAL SERVICES	01		26,768					
10	Travel	02		0					
11	Contractual	03		7,948					
12	Commodities	04		1,000					
13	Equipment	05		1,600					
14	Other								
15	TOTAL COST			37,316					
	RECEIPT CODE	FUNDING SOURCE							
16		Federal Receipts	1002						
17		G.F. Match	1003						
18		General Funds	1004	37,316					
19		I-A Receipts	1005						
20		Program Receipts	1028						
21		Other							
For M&B Use Only									
4A Key Number _____									

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor
PROGRAM Worker Protection
BRU Labor Standards & Safety
COMPONENT Wage & Hour Administration

FY 86

Page 3 of 3
Revised Date

LEG:F:

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : 2-27-86

REQUEST

Bill/Resolution No. : SSSE 271
 Title : Resident Hire on Natural Resource
Projects
 Sponsor : Josephson et al.
 Requestor : Senate Resources Committee
 Date of Request : 2-25-86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Petroleum Management
Minerals Management
Forest Management
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Carol Wilson
 Division : Commissioner's Office

Phone : 465-2400
 Date : 2-27-86

Approved by Commissioner : Ann S. Smith
 Agency : Department of Natural Resources

Date : 2/27/86

Distribution (by Agency preparing fiscal note) :

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

Revision Date: _____

*Not included
in member
files*

REQUEST

Bill/Resolution No.: SB 271
 Title: Resident Hire Under Oil and Gas Leases on State Land
 Sponsor: Josephson, Kerttula
 Requestor: House Labor and Commerce
 Date of Request: 4/10/85

FISCAL DETAIL

Agency Affected: Natural R
 Program Category Affected: Oil and Gas Management BRU, Program or Subprogram

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Carol Wilson

Phone: 465-2400

Division: Commissioner's Office

Date: 4/13/85

Approved by Commissioner: Alma D Arnold, Deputy
 Agency: Natural Resources

Date: 4/16/85

Distribution (by Agency preparing fiscal note):

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

7/1/84

**STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 271
 Title: Resident Hire Under Oil and Gas Leases on State Land
 Sponsor: Josephson, Kerttula
 Requestor: House Labor and Commerce
 Date of Request: 4/10/85

FISCAL DETAIL

Agency Affected: Natural Resources
 Program Category Affected: NRMEC Oil and Gas Management
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Carol Wilson

Phone: 465-2400

Division: Commissioner's Office

Date: 4/13/85

Approved by Commissioner: Wm D Arnold, Deputy

Date: 4/16/85

Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

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

7/1/84

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

2/11/86

Date 4-14-86

Mr. President

The Committee on RESOURCES considered SSSB 271

requiring resident hire on certain natural resource projects on state land; efd.

and (a majority of the committee) ~~(the committee)~~ reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SSSB 271 (RES)
 new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
Paul J. Ziaffoff *strengthen Kenalties*
W. J. [Signature] *strengthen "*

MEMBERS HAVING
OTHER RECOMMENDATIONS

Kirk Hallock *NO REC*
Betty [Signature] *No Pass when amended*

[Signature]
Chairman

Do Pass
Chairman recommendation

Offered: 4/15/86
Referred: Finance

Original sponsors: Josephson, Kerttula,
V.Fischer, et al

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 271 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act requiring resident hire on certain natural
7 resource projects on state land; and providing for an
8 effective date."

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

10 * Section 1. AS 38 is amended by adding a new chapter to read:

11 CHAPTER 45. RESIDENT EMPLOYMENT PREFERENCE UNDER STATE LEASES.

12 Sec. 38.45.010. STATE POLICY. It is the policy of the state to
13 develop its natural resources to provide the maximum benefit to the
14 people of the state as required by the Constitution of the State of
15 Alaska. These benefits include employment opportunities in natural
16 resource development projects for residents qualified for the employ-
17 ment, as well as receipt of state revenue from the development.

18 Sec. 38.45.020. LEGISLATIVE FINDINGS. The legislature finds:

19 (1) the findings made in AS 36.10.005 continue to accurately
20 describe the social, economic, and employment situation in the
21 state;

22 (2) chronic unemployment can breed severe social problems
23 including alcoholism and domestic violence;

24 (3) the findings of the Department of Labor of the State of
25 Alaska in its report entitled "Nonresidents Working in Alaska; A
26 Special Study to Measure the Economic Impact of Nonresidents on
27 Alaska's Economy During Calendar Year 1984" support the need for a
28 resident hiring preference;

29 (4) there is a need for timely, accurate information on the

1 number of nonresident and resident workers in industries in the state;

2 (5) the state has a continuing interest in determining
3 whether indirect benefits, including employment opportunities, from
4 state expenditures, natural resource projects, and agreements concern-
5 ing the state's natural resources accrue to residents of the state or
6 to nonresidents;

7 (6) a major factor in the unemployment problem is the
8 failure of some employers engaged in the exploration, development, and
9 production of natural resources on state land, and under leases or
10 other agreements granted or permitted by the state, to employ state
11 residents;

12 (7) whereas at an earlier stage of the state's history it
13 was asserted that high unemployment in the state was due to cultural
14 and geographical migration barriers, the state now has many residents
15 who are qualified, trained, and available for employment in the explo-
16 ration, development, production, and extraction of natural resources
17 on state land;

18 (8) the state has made significant investments in training
19 programs and vocational education to help furnish industry with qual-
20 ified residents able to work in the development, exploration, produc-
21 tion, and extraction of natural resource products on state land;

22 (9) the state's investment in these training and education
23 programs will be of little avail unless state residents receive em-
24 ployment opportunities in natural resource projects on state land;

25 (10) employment of nonresidents displaces qualified resi-
26 dents from work in the development, exploration, production, and
27 extraction of natural resource products on state land; therefore, the
28 number of nonresidents hired for work on state land in the develop-
29 ment, exploration, production, and extraction of state resources is a

1 peculiar source of the unemployment problem now besetting the state;

2 (11) the number of state residents who are unable to find
3 work is considerably higher than is reflected by unemployment rates
4 based on nationally accepted measures;

5 (12) many rural state residents who wish to work do not seek
6 employment as frequently as necessary to meet federal definitions of
7 unemployment because of continuing lack of employment opportunities in
8 rural areas of the state.

9 Sec. 38.45.030. UNAVAILABILITY OF PREFERRED WORKERS. (a) An
10 employer subject to hiring requirements under this chapter may request
11 the Department of Labor to assist in locating qualified, eligible
12 employees. After receiving a request for assistance, the department
13 shall refer qualified, eligible, available residents to the employer
14 to fill the employer's hiring needs.

15 (b) If the department is unable to refer a sufficient number of
16 qualified, eligible, available residents able to perform the work, the
17 commissioner of labor may approve the hiring of residents who are not
18 eligible for preference and nonresidents for the balance of the re-
19 quest.

20 Sec. 38.45.040. EMPLOYEE QUALIFICATIONS. An employer shall
21 determine and judge the work qualifications of applicants for employ-
22 ment.

23 Sec. 38.45.050. REGULATIONS. The commissioner of labor shall
24 adopt regulations in accordance with AS 44.62 (Administrative Proce-
25 dure Act) to implement this chapter and encourage and require the
26 hiring of residents to the maximum extent permitted by law.

27 Sec. 38.45.060. RESIDENT HIRE REPORT. The attorney general and
28 the commissioner of labor shall report annually to the legislature and
29 the governor on the status of employment in the state, the effect of

1 nonresident employment on the employmer of residents in the state,
2 and methods to increase resident hire. The report shall be submitted
3 by January 31 of each year.

4 Sec. 38.45.070. ELIGIBILITY FOR PREFERENCE. (a) A person is
5 eligible for an employment preference under this chapter if the person
6 certifies eligibility as required by the Department of Labor, is a
7 resident, and

8 (1) is receiving unemployment benefits under AS 23.20 or
9 would be eligible to receive benefits but has exhausted them;

10 (2) is not working and has registered to find work with a
11 public or private employment agency or a local hiring hall;

12 (3) is underemployed or marginally employed as defined by
13 the department; or

14 (4) has completed a job-training program approved by the
15 department and is either not employed or is engaged in employment that
16 does not use the skills acquired in the job-training program.

17 (b) An employer subject to a resident hiring requirement under
18 this chapter shall certify that persons employed as residents under
19 the preference were eligible for the preference at the time of hire.

20 Sec. 38.45.080. DETERMINATION OF UNDEEMPLOYED AREA. (a)
21 Immediately following a determination by the commissioner of labor
22 that a census area, economic region, or the state as a whole is an
23 underemployed area and for the next two fiscal years after the deter-
24 mination, qualified residents who are eligible under AS 38.45.070
25 shall be given preference in hiring for work on each natural resource
26 project on state land that is wholly or partially sited within the
27 area.

28 (b) The commissioner of labor shall determine the amount of work
29 that must be performed under this chapter by qualified residents who

1 were eligible for an employment preference under this chapter at the
2 time of hiring. In making this determination, the commissioner shall
3 consider the nature of the work, the classification of workers, avail-
4 ability of eligible residents, and the willingness of eligible resi-
5 dents to perform the work.

6 (c) The commissioner shall determine that a census area, econo-
7 mic region, or the state as a whole is an underemployed area if the
8 commissioner finds that

9 (1) the rate of unemployment within the area is substan-
10 tially higher than the national rate of unemployment;

11 (2) a substantial number of residents in the area have
12 experience or training in occupations that would be employed on a
13 natural resource project on state land;

14 (3) the lack of employment opportunities in the area has
15 contributed to serious social or economic problems in the area; and

16 (4) employment of workers who are not residents is a pecu-
17 liar source of the unemployment of residents of the area.

18 (d) The commissioner shall define the boundaries of a census
19 area or economic region within which a preference applies. In choos-
20 ing whether to apply a preference to a census area, economic region,
21 or the state as a whole, the commissioner shall apply the preference
22 to the smallest unit that will adequately address the problems identi-
23 fied by the findings.

24 Sec. 38.45.090. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-
25 TRESSED AREAS. (a) Immediately following a determination by the
26 commissioner that a census area or economic region of the state is an
27 economically distressed area, and for the next two fiscal years after
28 the determination, qualified residents of the area who are eligible
29 under AS 38.45.070 shall be given preference in hiring for at least 50

1 percent of employment on each natural resource project on state land
2 that is wholly or partially sited within the economically distressed
3 area.

4 (b) The commissioner shall determine that an area is an econom-
5 ically distressed area if the commissioner finds that

6 (1) the per capita income of residents is less than 90
7 percent of the per capita income of the United States as a whole or
8 the unemployment rate in the area exceeds the national rate of unem-
9 ployment by at least five percentage points;

10 (2) the lack of employment opportunities in the area has
11 substantially contributed to serious social or economic problems in
12 the area; and

13 (3) employment of workers who are not residents is a pecu-
14 liar source of unemployment of residents of the area.

15 (c) If the governor has declared an area to be an area affected
16 by an economic disaster under AS 44.33.285, then the preference for
17 residents of the area established under AS 44.33.285 - 44.33.310
18 supersedes the preference under this section.

19 (d) The commissioner shall define the boundaries of a census
20 area or economic region in which a preference applies. In choosing
21 whether to apply a preference to a census area or economic region,
22 the commissioner shall apply the preference to the smallest unit that
23 will adequately address the problems identified by the findings.

24 Sec. 38.45.100. INCORPORATION INTO CONTRACTS. (a) In order to
25 create, protect, and preserve the right of eligible qualified resi-
26 dents to employment in natural resource projects on state land, the
27 commissioner of natural resources shall incorporate into each con-
28 tract, lease, unitization agreement, or renegotiation of a contract,
29 lease or unitization agreement, provisions requiring compliance with

1 this chapter, regulations adopted under this chapter, and all later
2 amendments to this chapter or the regulations, and authorizing pen-
3 alties under AS 38.45.120 for failure to comply.

4 (b) The commissioner shall incorporate into each contract,
5 lease, unitization agreement, or renegotiation a requirement that the
6 contractor or lessee include in each contract with contractors or
7 subcontractors who will be operating on state land a provision requir-
8 ing compliance with this chapter, later amendments of this chapter,
9 regulations adopted under this chapter, and authorizing penalties
10 under AS 38.45.120.

11 Sec. 38.45.110. REPORTING PROVISIONS. An employer obligated to
12 meet resident hiring requirements under this chapter shall comply with
13 the reporting provisions that the commissioner of labor determines are
14 reasonably necessary to carry out this chapter. Except for statisti-
15 cal data, information concerning specific employees is confidential
16 and may not be released to the public by the department. However,
17 confidential employee information may be shared between departments
18 for purposes of this chapter.

19 Sec. 38.45.120. CIVIL PENALTY. (a) The Department of Labor may
20 conduct investigations and hearings to determine compliance with this
21 chapter. After a hearing, if the commissioner of labor finds that an
22 employer has wilfully failed to comply with this chapter, the commis-
23 sioner may impose a civil penalty in the amount of

24 (1) the lesser of \$5,000 or five percent of the compensa-
25 tion to the state under the project, lease, or agreement for the first
26 rejection of a qualified eligible applicant or other violation of this
27 chapter;

28 (2) the lesser of \$10,000 or 10 percent of the compensation
29 to the state under the project, lease, or agreement for the second and

1 each subsequent rejection or other violation of this chapter.

2 (b) In addition to the imposition of other penalties under this
3 section, if the Department of Labor finds that an employer has wil-
4 fully rejected a qualified eligible applicant or terminated a quali-
5 fied eligible employee in violation of this chapter, the department
6 may require the employer to pay the person the amount of wages the
7 person lost and may require additional amounts to reimburse the person
8 for actual expenses incurred as a result of the wrongful action.

9 (c) The commissioner may impose the penalties under this section
10 on an employer only if the employer itself has failed to comply with
11 this chapter, later amendments of this chapter, or regulations adopted
12 under this chapter, or if the employer has failed to incorporate into
13 its contracts the provision required under AS 38.45.100(b).

14 (d) The Department of Labor, in addition to the imposition of
15 penalties under this section, may seek injunctive relief against a
16 person who is not in compliance with this chapter and to enforce
17 penalties imposed under this section.

18 Sec. 38.45.130. PENALTIES FOR APPLICANTS AND EMPLOYERS. (a) A
19 person who makes a false sworn statement in connection with a certi-
20 fication of eligibility for an employment preference under this chap-
21 ter is subject to criminal prosecution for perjury as provided in
22 AS 11.56.200.

23 (b) A person who makes an unsworn falsification, with the intent
24 to mislead a public servant in the performance of a duty, in connec-
25 tion with a certification of eligibility for an employment preference
26 under this chapter, is subject to criminal prosecution as provided in
27 AS 11.56.210.

28 (c) In addition to criminal penalties imposed by state law, if a
29 person is convicted of a crime in connection with a false statement

1 made in a certification required under AS 38.45.060, and the convic-
2 tion is not reversed, that person shall forfeit all future rights to
3 eligibility for an employment preference under this chapter.

4 Sec. 38.45.200. APPLICABILITY OF CHAPTER. This chapter applies
5 to all natural resource projects on state land. The preference app-
6 lies only to employment that is performed directly for an employer.

7 Sec. 38.45.250. DEFINITIONS. In this chapter

8 (1) "available" means physically present at the place of
9 hire at the time requested by the employer;

10 (2) "employer" means a person other than the state who is a
11 party to a contract, lease, or unitization agreement for a natural
12 resource project on state land and the person's affiliate, principal,
13 subsidiary, contractor, or subcontractor if the activity of the affil-
14 iate, principal, subsidiary, contractor, or subcontractor is performed
15 on state land;

16 (3) "natural resource project on state land" means a pro-
17 ject authorized by a contract, lease, unitization agreement, or a
18 renegotiation of a contract, lease, or unitization agreement for
19 exploration, development, extraction or production of oil and gas,
20 leasable mineral, or timber resources if the state is a party to the
21 contract, lease or unitization agreement and the project is performed
22 in whole or in part on state land;

23 (4) "qualified resident" means a resident who possesses the
24 requisite education, training, skills, or experience to perform the
25 work;

26 (5) "resident" means a person who establishes residency
27 under AS 01.10.055;

28 (6) "state land" means all land, including shore, tide, and
29 submerged land, belonging to or acquired by the state.

1 * Sec. 2. AS 38.45, enacted in sec. 1 of this Act, applies to a lease,
2 unitization agreement, or contract for the development of oil and gas,
3 leasable mineral, or timber resources entered into on or after the effec-
4 tive date of this Act and to a renegotiation of the lease, unitization
5 agreement, or contract. AS 38.45 applies to the renegotiation on or after
6 the effective date of this Act of a lease, unitization agreement, or con-
7 tract entered into before the effective date of this Act if the renegotia-
8 tion results in a major change in the duties of a party.

9 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
10 10.070(c).

Introduced: 2/11/86
Referred: Resources and
Finance

BY JOSEPHSON, KERTTULA, V. FISCHER,
ZHAROFF, BENNETT, RODEY, ELIASON,
FERGUSON, SACKETT, RAY, COGHILL,
ZIEGLER, FAHRENKAMP, STURGULEWSKI
AND KELLY

1 IN THE SENATE

2

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 271

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act requiring resident hire on certain natural
7 resource projects on state land; and providing for an
8 effective date."

9

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

10

* Section 1. AS 38 is amended by adding a new chapter to read:

11

CHAPTER 45. RESIDENT EMPLOYMENT PREFERENCE UNDER STATE LEASES.

12

Sec. 38.45.010. STATE POLICY. It is the policy of the state to
13 develop its natural resources to provide the maximum benefit to the
14 people of the state as required by the Constitution of the State of
15 Alaska. These benefits include employment opportunities in natural
16 resource development projects for residents qualified for the employ-
17 ment, as well as receipt of state revenue from the development.

18

Sec. 38.45.020. LEGISLATIVE FINDINGS. The legislature finds:

19

(1) the findings made in AS 36.10.005 continue to accurately
20 describe the social, economic, and employment situation in the
21 state and specifically apply to employment on natural resources pro-
22 jects on state land;

23

(2) chronic unemployment breeds severe social problems
24 including alcoholism and domestic violence;

25

(3) the findings of the Department of Labor of the State of
26 Alaska in its report entitled "Nonresidents Working in Alaska; A
27 Special Study to Measure the Economic Impact of Nonresidents on
28 Alaska's Economy During Calendar Year 1984" support the need for a
29 resident hiring preference;

1 (4) a major factor of increasing importance in the unem-
2 ployment problem is the failure of employers engaged in the explora-
3 tion, development, and production of natural resources on state land,
4 and under leases or other agreements granted or permitted by the
5 state, to employ state residents;

6 (5) whereas at an earlier stage of the state's history it
7 was asserted that high unemployment in the state was due to cultural
8 and geographical migration barriers, the state now has many residents
9 who are qualified, trained, and available for employment in the explo-
10 ration, development, production, and extraction of natural resources
11 on state land, but who are not presently employed because an increas-
12 ing amount of the work they are qualified to perform is being per-
13 formed on state land by nonresidents;

14 (6) the state has made significant investments in training
15 programs and vocational education to help furnish industry with qual-
16 ified residents able to work in the development, exploration, produc-
17 tion, and extraction of natural resource products on state land;

18 (7) unless the trend towards hiring nonresidents is re-
19 versed, the state's investment in these training and education pro-
20 grams will be of little avail, the state policy of maximizing benefits
21 from natural resource development will be thwarted, and the state will
22 suffer the burdens wrought by increasing demands for public assistance
23 and other state services from unemployed residents and their families;

24 (8) employment of nonresidents displaces qualified resi-
25 dents from work in the development, exploration, production, and
26 extraction of natural resource products on state land and from work in
27 service occupations on state land that directly support the develop-
28 ment, exploration, and production activities; therefore, the growing
29 number of nonresidents hired for work on state land, in the

1 development, exploration, production, and extraction of state re-
2 sources, is a peculiar source of the unemployment evil now besetting
3 the state;

4 (9) state policies favoring stable levels of taxation have
5 been predicated upon assurances from the natural resource industries
6 that state residents would receive employment opportunities in the
7 exploration, development, and production of natural resources from
8 state-owned land, but data show that these assurances, and the expec-
9 tations they created, are not being fulfilled.

10 Sec. 38.45.030. ELIGIBILITY FOR PREFERENCE. (a) The Department
11 of Labor shall certify a person as eligible for a hiring preference
12 under this chapter if the person applies on a form provided by the
13 department, is a resident, and

14 (1) is receiving unemployment benefits under AS 23.20 or
15 would be eligible to receive benefits but has exhausted them;

16 (2) is not working and has registered with a public or
17 private employment agency or a local hiring hall;

18 (3) is underemployed or marginally employed as determined
19 under regulations adopted by the department; or

20 (4) has completed a job-training program approved by the
21 department.

22 Sec. 38.45.040. RESIDENT HIRE REQUIREMENTS. (a) An employer
23 shall meet the resident hiring requirements established by the commis-
24 sioner of labor under this section on a natural resource project on
25 state land that is subject to a hiring preference under AS 38.45.060.
26 An employer may not discriminate against qualified residents in em-
27 ployment on a natural resource project on state land.

28 (b) The commissioner of labor shall determine the amount of work
29 that must be performed under this chapter by eligible qualified

1 residents on a natural resource project on state land. In making this
2 determination, the commissioner shall consider the nature of the work,
3 the classification of workers, availability of eligible residents, and
4 the willingness of eligible residents to perform the work. The com-
5 missioner shall require an employer to make the maximum feasible
6 effort to hire eligible qualified residents for jobs on state land.

7 (c) During the three fiscal years following a determination by
8 the commissioner of labor that a census area, census subarea, or an
9 economic region of the state is an economically distressed area, at
10 least 50 percent of resident employment preference under this section
11 on each project that is wholly or partially sited within the
12 economically distressed area shall consist of residents of the area.
13 The 50 percent preference applies to worker hours on a craft-by-craft
14 basis.

15 (d) The commissioner of labor shall determine that an area is an
16 economically distressed area under (c) of this section if the commis-
17 sioner finds that

18 (1) the average annual family income of residents of the
19 area is below the adjusted poverty guidelines of the federal Depart-
20 ment of Health and Human Services or that the unemployment rate in the
21 area exceeds the national rate of unemployment by at least five per-
22 centage points; and

23 (2) employment of workers who are not residents of the area
24 is a contributing cause of unemployment of residents of the area.

25 (e) If the governor has declared an area to be an area affected
26 by an economic disaster under AS 44.33.285, then the preference for
27 residents of the area established under AS 44.33.285 - 44.33.310
28 supercedes the preference under this section.

29 (f) In order to create, protect, and preserve the right of

1 eligible qualified residents to employment in natural resource proj-
2 ects on state land, the commissioner of natural resources shall incor-
3 porate into each lease, unitization agreement, or renegotiation of a
4 lease or agreement, provisions requiring compliance with this chapter,
5 regulations adopted under this chapter, and all later amendments to
6 this chapter or the regulations, and authorizing penalties under
7 AS 38.45.080 for failure to comply. The commissioner shall incorpo-
8 rate into each lease, agreement, or renegotiation a requirement that
9 the lessee include in each contract under the lease or agreement with
10 contractors or subcontractors who will be operating on state land a
11 provision requiring compliance with this chapter, later amendments of
12 this chapter, regulations adopted under this chapter, and authorizing
13 penalties under AS 38.45.080.

14 (g) An employer subject to resident hiring requirements under
15 this chapter may request the Department of Labor to assist in locating
16 eligible, qualified, available employees. After receiving a request
17 for assistance, the department shall refer eligible, qualified, avail-
18 able residents to the employer to fill the employer's hiring needs.
19 If the department is unable to refer a sufficient number of eligible
20 residents, it may approve the hiring of residents who are not eligible
21 for preference and nonresidents for the balance of the request.

22 Sec. 38.45.050. REPORTING PROVISIONS. An employer obligated to
23 meet resident hiring requirements under this chapter shall comply with
24 the reporting provisions that the commissioner of labor determines are
25 reasonably necessary to carry out this chapter.

26 Sec. 38.45.060. APPLICABILITY OF CHAPTER. This chapter applies
27 to all natural resource projects on state land. The Department of
28 Labor shall determine the extent of the resident hiring preference for
29 each project under AS 38.45.040. The preference applies only to

1 employment that is performed directly for an employer.

2 Sec. 38.45.070. REGULATIONS AND HEARINGS. (a) The Department
3 of Labor and the Department of Natural Resources shall adopt regula-
4 tions to implement this chapter. The Department of Labor shall adopt
5 regulations prohibiting discrimination against qualified residents in
6 employment on a natural resource project on state land. Regulations
7 and proceedings under this chapter are subject to the Administrative
8 Procedure Act (AS 44.62) except as provided in (b) of this section.

9 (b) An employer shall determine and judge the work qualifica-
10 tions of applicants for employment. An applicant who has been reject-
11 ed or an employee who has been terminated from employment may, within
12 30 days after the rejection or termination, request a hearing before
13 the Department of Labor to determine whether the employer violated
14 this chapter in denying the application or terminating the employment.
15 The Department of Labor shall hold a hearing on the question within 20
16 days of receipt of the request unless the applicant or employee re-
17 quests a longer period of time.

18 (c) The Department of Labor may conduct investigations and
19 hearings to determine compliance with this chapter. If the commis-
20 sioner of labor finds that an employer has wilfully failed to comply
21 with this chapter, the commissioner may certify the finding to the
22 Department of Natural Resources.

23 Sec. 38.45.080. PENALTIES. (a) If the Department of Labor
24 finds that an employer has rejected a qualified applicant or term-
25 inated a qualified employee from employment in violation of this
26 chapter, the department may require the employer to pay the person
27 three times the amount of wages the person lost and may require addi-
28 tional amounts if the person's actual expenses incurred as a result of
29 the wrongful action exceeded the triple wages assessed. Either party

1 may appeal the department's decision under this section to the su-
2 perior court. The court may hear the appeal de novo.

3 (b) The Department of Natural Resources, upon certification of
4 noncompliance by the Department of Labor under AS 38.45.070, may
5 investigate and conduct hearings. If it finds wilful noncompliance,
6 the department may impose on the employer any of the following pen-
7 alties:

8 (1) increase the rent or other forms of compensation re-
9 ceived by the state under the project lease or agreement by a factor
10 of no more than 10; the increase may not exceed \$100,000;

11 (2) require that all or a portion of project operations
12 cease;

13 (3) remove, for an appropriate period of time not to exceed
14 three years, the eligibility of the employer to contract with the
15 state or any of its political subdivisions; or

16 (4) require a noncompliance payment in liquidated damages
17 to the state in an amount equal to seven and one-half times the number
18 of hours required but not worked by eligible qualified residents
19 multiplied by the going wage or salary rate for the particular job or
20 activity involved.

21 (c) The commissioner may impose the penalties under (b)(1) and
22 (2) of this section on a lessee only if the lessee itself has failed
23 to comply with this chapter or incorporate into the contract with the
24 violator a provision requiring compliance with this chapter.

25 Sec. 38.45.090. INJUNCTIVE RELIEF. The Department of Labor or
26 the Department of Natural Resources, in addition to the imposition of
27 penalties under AS 38.45.080, may seek injunctive relief against a
28 person who is not in compliance with this chapter. The Department of
29 Natural Resources may seek injunctive relief to enforce penalties

1 imposed under AS 38.45.080.

2 Sec. 38.45.100. DEFINITIONS. In this chapter

3 (1) "employer" means a person other than the state who is a
4 party to a lease or agreement for a natural resource project on state
5 land and includes the person's affiliate, principal, subsidiary,
6 contractor, or subcontractor if the activity of the affiliate, princi-
7 pal, subsidiary, contractor, or subcontractor is performed on state
8 land;

9 (2) "natural resource project on state land" means a con-
10 tract, lease, unitization agreement, or a renegotiation of a contract,
11 lease, or agreement for exploration, development, extraction or pro-
12 duction of oil and gas, mineral, or timber resources if the state is a
13 party to the contract, lease or agreement and the project is performed
14 in whole or in part on state land;

15 (3) "qualified resident" means a resident who possesses the
16 requisite education, training, skills, or experience to perform the
17 work;

18 (4) "resident" means a person who

19 (A) except for military service, has been physically
20 present in the state for a period of 30 days immediately before
21 the time the person enters into a contract of employment on a
22 natural resource project on state land; and

23 (B) shows by all attending circumstances the intention
24 to permanently reside in this state.

25 * Sec. 2. AS 38.45, enacted in sec. 1 of this Act, applies to a lease,
26 unitization agreement, or contract for the development of oil and gas,
27 mineral, or timber resources entered into on or after the effective date of
28 this Act and to a renegotiation of the lease, agreement, or contract.
29 AS 38.45 applies to the renegotiation on or after the effective date of

1 this Act of a lease, agreement, or contract entered into before the effec-
2 tive date of this Act if the renegotiation results in a major change to the
3 duties of a party.

4 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
5 10.070(c).