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Official Business

# Alaska State Legislature

## Senate

Pouch V  
State Capitol  
Juneau, Alaska 99811

FOR IMMEDIATE RELEASE  
April 8, 1985

### EXPANSION OF LOCAL HIRE PROPOSAL

JUNEAU, AK -- Senator Joe Josephson today introduced Senate Bill 271, which would reapply local hire requirements to oil company activities on state leases.

This issue first arose in 1973 when the Legislature enacted a local hire program covering nearly all oil company, subcontractor, and supplier employees. "Since this law was struck down by the Supreme Court in 1978, oil companies and other private employers have been hiring a higher percentage of non-Alaskans for Alaskan jobs," according to Josephson.

The current local hire law, introduced by Senator Josephson in 1983, only applies to public works contracts using state funds. SB 271, if enacted, would extend Alaskan hire to private sector employees working on state-leased property. "No longer will oil companies and their contractors be able to recruit large numbers of non-residents while leaving qualified Alaskans unemployed," said Senator Josephson.

(more)

Press release, clippings

In preparing this bill, Senator Josephson reviewed the 1978 decision of the United States Supreme Court (Hicklin v. Orbeck) which invalidated the former Alaska local hire law.

According to Josephson, "That decision conceded that a state, in setting forth the conditions under which the people's property is developed, may favor residents for employment purposes, if the state program is not overbroad and is properly tailored to meet the cause of unemployment in the state."

"But the Court found that the old Alaska statute was too broad. It affected distribution systems, including pipelines, refineries, and suppliers. Senate Bill 271 cures that concern, and affects only employers working on state-leased property and their employees.

"When the Court decided Hicklin v. Orbeck, it thought that Alaska's unemployment problem was the result of an absence of trained, skilled workers able to meet the requirements of the new petroleum industry in the state.

"Whatever merit there may have been when the decision was made in 1978, based on reports dating back to 1971 -- and I believe that the Court was not adequately informed about the Alaska workers then available -- it can no longer be argued that Alaska lacks a skilled, available, trained work force of residents.

(more)

"In my judgment, the work force is now indisputably qualified. And the State, for its part, has much more sophisticated data available as evidence to show the impact of nonresident workers entering Alaska and recruited from Outside.

"These changing conditions mean to me that the factual premises are now significantly different.

"When the Hicklin v. Orbeck case was before the Court, the legislation had included a one-year residency requirement as a test for qualifying as a resident worker.

"It is clear that the one-year requirement will not pass constitutional muster; accordingly, Senate Bill 271 substitutes a lawful 30-day physical presence plus intent-to-remain standard which we are assured is constitutional.

"Recently available data show a trend towards recruitment and hire of non-residents, while qualified and experienced Alaska workers are not employed. This trend violates the expectations of Alaska workers and leaders dating back to the time when the Legislature made concessions to industry, and even back to the very beginning of North Slope development. Senate Bill 271 is not free of constitutional question, but it is an earnest and careful

(more)

Local hire

- 4 -

effort to remove offending provisions of the old law, and to use every available and appropriate state power to encourage the employment of qualified Alaskans."

For further information contact:  
Senator Joe Josephson  
465-4525

# Editorial

## Josephson's Local Hire Bill Is Right on Target

State Senator Joe Josephson has come up with a local hire bill that gets to the heart of the problem of oil companies on the Slope encouraging the hiring of non-resident Alaskans while qualified Alaskans sit on the bench waiting for work. That bill would require companies doing business on state leases to hire Alaskans first.

"No longer will oil companies and their contractors be able to recruit large numbers of non-residents while leaving qualified Alaskans unemployed," Sen. Josephson said in introducing the measure.

Josephson said he had found a way around Constitutional problems that led the U.S. Supreme Court to strike down a 1973 local hire law. Josephson, a lawyer and member of the Senate Minority, said the 1973 law was "overboard" and affected distribution systems, including pipelines, refineries, and suppliers. By narrowly tailoring a bill excluding these Josephson said the act would meet a constitutional test. In addition, he said the Supreme Court found that Alaska did not have a trained work force at the time of its ruling but that such was no longer the case.

"In my judgment, the work force is now indisputably qualified. And the state, for its part, has much more sophisticated data available as evidence to show the impact of non-resident workers entering Alaska and recruited from Outside," Josephson said.

Although a minority bill, he said he thought it would get a fair hearing. Majority members Jay Kertula (D-Palmer) and Fred Zharoff (D-Kodiak) have co-sponsored the bill. Zharoff has slated hearings on the bill next week in his Labor and Commerce Committee.

We commend Senator Josephson for his measure.

When we originally suggested editorially that it was time to consider another local hire law in light of the Wyoming Supreme Court's decision on the Wyoming Hiring Preference Law, we envisioned companies working on state leases would be included. And we must admit we were a little chagrined that local hire as passed the House 39-0 included only projects which receive some state funding. Such would leave practically the entire North Slope uncovered by the local hire law and that precisely is where the problem is.

Lt. Governor Stephen McAlpine a strong supporter of local hire and Josephson's bill points out that \$1.2 billion per year is being earned by workers who don't apply for the Permanent Fund dividend, in other words, who don't consider themselves residents. Previously, Governor Sheffield released figures that more than 600 workers on the Slope had indicated they were not residents. No doubt many others have nothing more than

post office box addresses to evidence their claims residency.

Alaska gets revenue chiefly in two ways: through taxation and through salaries and wages which generate a multiple effect through the economy. If the second means of obtaining revenue dries up, the Alaska people are going to clamor for more taxes on the oil industry. Incidentally, another bill to increase corporate income tax on the oil companies has been introduced in the legislature.

Big Oil appears to take the attitude it is so big it can do almost anything it wishes. By now it should be crystal clear that they cannot continue to escalate the hiring of non-resident Alaskans while qualified Alaska residents are ready, willing and able to work. Alaskans simply won't stand for it.

### Letters

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF LAW

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

OFFICE OF THE ATTORNEY GENERAL

April 16, 1985

The Honorable Fred Zharoff  
Chairman, Senate Labor and  
Commerce Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Re: SB 271: Resident Hire  
Under Oil and Gas Leases

Dear Senator Zharoff:

I am responding to a request from a member of your staff for our comments regarding SB 271, which deals with resident hire under certain oil and gas leases. Unfortunately, I will be in Anchorage at the time of your committee's scheduled hearing on this bill. However, if any questions arise during the course of that hearing, I would certainly be happy to respond to them upon my return early next week.

As you probably know, the Alaska Legislature first enacted a resident hire law with respect to state oil and gas leases in 1972. That law, AS 38.40, was enforced by the Department of Labor throughout the period of construction of the Trans-Alaska Pipeline, but was ultimately held unconstitutional by the United States Supreme Court in the case of Hicklin v. Orbeck, 437 U.S. 518 (1978). SB 271 appears to be an attempt to craft a resident hire requirement for employment activity on state oil and gas leases, etc., which would satisfy the concerns of the U.S. Supreme Court in Hicklin. However, the new preference established by the bill may still be found by the courts to exceed the permissible scope of a state's ability to establish employment preferences for residents, consistent with the Hicklin case.

In Hicklin, the U.S. Supreme Court found essentially three separate problems with "Alaska Hire":

- 1) The court did not believe that the justifications advanced by the State in favor of the resident preference were adequate. At the time the legislature adopted AS 38.40, it did not have before it an adequate factual basis to validate its determination that state

Dept. of Law response

intervention in the job market in the form of an employment preference for residents was necessary.

2) Even if the State could have adequately justified imposing a resident hire requirement on certain employers, the broad sweep of AS 38.40 in applying to any employer who benefited in some manner from the "economic ripple effect of Alaska's decision to develop its oil and gas resources" simply went too far, in the Court's view. As the Court pointed out, "Alaska hire extends to employers who have no connection whatsoever with the State's oil and gas, perform no work on state land, have no contractual relationship with the State, and receive no payment from the State." Hicklin, at 530.

3) Even if the State could have justified imposing a resident hire requirement, and even if it only applied to an employer who had a direct relationship with the State (i.e. by contract or by working on State-owned land) the scope of the preference as it applied to individual residents was still too broad. In this regard, the court noted that "Alaska Hire simply grants all Alaskans, regardless of their employment status, education, or training, a flat employment preference for all jobs covered by the Act. . . . If Alaska is to attempt to ease its unemployment problem by forcing employers within the State to discriminate against non-residents -- again, a policy which may present serious constitutional questions -- the means by which it does so must be closely tailored to aid the unemployed the Act is intended to benefit." Hicklin, at 527-528.

While SB 271 does address some of the concerns raised in Hicklin, it appears to leave some of them unresolved:

1) Although the bill sets out a broader and more comprehensive set of legislative findings (AS 38.45.020), I am not aware that any factual studies or other kinds of inquiries have been conducted which would provide a firm basis for these findings. If they do exist, they should be presented during the course of the legislature's consideration of the bill and made a part of the legislative record. In that regard, I understand there is a proposal under active consideration in the House (HB 295) which would appropriate \$100,000 to the Department of Labor for just such a study.

The Honorable Fred Zharofr  
Chairman, Senate Labor and  
Commerce Committee

April 16, 1985  
Page 3

2) The bill does seem to address the problem in Hicklin of applying the resident hire requirement to too broad a range of employers. Under the bill, only employers engaged in activity on state lands would be subject to the law.

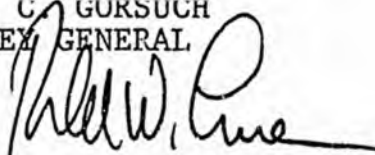
3) The bill does not address the problem in Hicklin of giving all state residents an employment preference, whether or not they are unemployed or underemployed. In this regard, creating "employment target groups" comprised of unemployed residents, chronically underemployed residents, and training-qualified residents should respond to those concerns in Hicklin.

If I can provide any further background or assistance, please do not hesitate to contact me.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:

  
Ronald W. Lorensen  
Deputy Attorney General

RWL:vrh

cc: Honorable Joe Josephson  
Senator

Honorable Red Boucher  
Representative

Honorable Marco Pignalberi  
Representative

# International Brotherhood

# of Electrical Workers

TELEPHONE  
(907) 272-6571  
TELEX 25-250

J. J. "JACK" HULL  
BUSINESS MANAGER • FINANCIAL SECRETARY



2702 DENALI STREET  
ANCHORAGE, ALASKA 99503

ERIC WORTHINGTON  
PRESIDENT

Local 1547



April 23, 1985

The Honorable Senator Zharoff  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Dear Senator Zharoff:

Thank you very much for the opportunity to speak before the Senate Labor and Commerce Committee regarding SB 271 on April 17, 1985.

In order to help facilitate the hearing process, I shortened my presentation before you. However, I have enclosed my complete written testimony and a copy for each member of the Senate Labor and Commerce Committee.

If you need any further statistics or other information from our organization, please contact me or Jack Hull, the Business Manager, and we will be sure to assist you in any way we can.

Sincerely,

Dixie Lee Hudish  
Industrial Relations Officer

Enclosure

cc:

Senator Sackett  
Senator Ray ✓  
Senator Eliason  
Senator Bennett  
Senator Josephson  
Senator Kertulla  
Senator V. Fischer  
Representative Pignalberi  
Representative Cotten  
Representative Davis  
Representative Phillips  
Representative Hurley  
Representative Navarre  
Representative Goll  
Representative Sund

DLH/eb

PUBLIC TESTIMONY

ON

SB 271

April 17, 1985

Mr. Chairman, members of the Senate Labor and Commerce Committee:

My name is Dixie Hudish, Industrial Relations Officer for the International Brotherhood of Electrical Workers (IBEW), Local No. 1547, 2702 Denali Street, Anchorage, Alaska 99503. I am speaking on behalf of Jack Hull, Business Manager, of the IBEW.

First of all I would like to thank those legislators who have worked so diligently on this proposed Bill that the IBEW wholeheartedly supports SB 271.

The IBEW is most concerned with out of state firms who are awarded bids for construction and bringing their own workers from out of state.

Presently, in our Fairbanks office, where jobs are dispatched out for slope work, we have approximately 200 residents in all four classifications (Communication, Wireman, Lineman and Apprentice)

out of work. We have only 100 members (local residents) working on the slope at this time. Compared to 600 residents last year who are on Book I. Local resident members who have lived in Alaska one year and have worked a certain number of hours (2,080 hours within the past four years) in the trade are dispatched first from Book I.

We have better than 32% Alaska natives in the Apprenticeship program at Fairbanks. These apprentices are from Barrow, Nome, Kotzebue, Galena, Tanana and Fort Yukon. Yet there are 40 apprentice wireman and 120 wireman out of work from the Fairbanks dispatch area.

We have 12% Alaska Natives in the Apprenticeship program in Anchorage and there are presently 70 apprentices out of work (34 wireman, 24 lineman, and 12 communication). Most of these Alaska Native apprentices are from the Bethel area.

We know that a majority of our local people are losing their jobs, primarily from out of state firms who are hiring their own people and bringing them up here to work on the slope.

I would like to mention several oil field firms who are doing just that:

1. GSL Oil Field Service - A firm out of Corpus Christi, Texas, who is working out of the Prudhoe Bay Hotel. They have up to 50-60 workers, mostly out of state, presently hired as maintenance road crews.
2. Pingo Oil Field Service - They hire maintenance people and are of state.
3. North Oilfield Service - Out of state people.
4. Udelhoven Oil Field Service - A good portion of their workers are out of state and work at Kapuruk.

These oil field services are mostly subcontracted by either ARCO or SOHIO.

VECO is another large firm who hires a lot of out of state workers.

The IBEW has not dispatched any non-resident since September 1984.

Out of approximately 300 total electricians working on the slope -- we can fairly say 200 are not local people. The situation

appears not to be getting any better for our local workers, but worse.

We have approximately 300 local people out of work from the Anchorage Dispatch office. This is a very large amount of our members unemployed. Many of these members, I am sure are drawing unemployment.

We have seen many situations where outside firms are awarded contracts only to hire people from outside. Case in point is the Irby Construction Company from Jackson, Mississippi, who received the contract to build the Inter-tie line between Fairbanks and Anchorage. You might say one-half of the line was built by out of state people.

I could continue on with more examples, but I feel I have painted a big enough picture for all of you to realize the situation our local resident members are up against. One only needs to come up on a flight out of Los Angeles, etc. to verify the number of out of state workers heading for the North Slope. The IBEW feels this bill would favorably help the economic picture of Alaska. The oil and gas industry needs to be more responsive to the needs of resident hire and this bill would provide just that.



# LABORERS INTERNATIONAL UNION OF NORTH AMERICA

LOCAL NUMBER 942

OFFICES: 315 BARNETTE ST., FAIRBANKS, ALASKA 99701 PHONE (907) 456-4584  
369 S. FRANKLIN STREET, JUNEAU, ALASKA 99801 PHONE (907) 586-2860

WILLIE LEWIS  
President

JOE J. THOMAS  
Business Manager and  
Secretary-Treas.

JUNEAU OFFICE  
JAMES R. WAKEFIELD  
Assistant  
Business Manager

The following is a breakdown of people dispatched to work through Laborers Local #942 between January 1984 and April 10, 1985.

Total Dispatched - 4278  
Residents - 3923  
Nonresidents - 355  
92% Resident Hire

Total dispatched from Fairbanks hall for work at Prudhoe Bay.

Total - 1833  
Residents - 1620  
Nonresidents - 213\*  
88% Resident Hire

\*Better than 90% of this figure was name requests by Employer.

Total dispatched from Fairbanks hall for all work other than Prudhoe Bay.

Total - 2030  
Residents - 1896  
Nonresidents - 134  
93% Resident Hire

Total dispatched from Juneau and Ketchikan halls (includes all of South-eastern Alaska.)

Total - 415  
Residents - 407  
Nonresidents - 8\*  
98% Resident Hire

\*All eight were name requests by Employers as foremen or individuals with special skills.

Total dispatched by all three Local #942 Hiring Halls (Fairbanks, Juneau, Ketchikan) for work other than Prudhoe Bay.

Total - 2445  
Residents - 2303  
Nonresidents - 142  
94% Resident Hire

MR. CHAIRMAN AND MEMBERS OF THE SENATE LABOR AND COMMERCE. MY NAME IS CHARLIE ELDER AND I AM AN EMPLOYEE OF SOHIO AS AN EXECUTIVE CONSULTANT FOR OUR INTEREST IN ALASKA.

MY PURPOSE TODAY IS TO LAY ON THE TABLE SOHIO'S OBJECTIONS AND COMMENTS ON SENATE BILL 271, AND I WILL ATTEMPT TO BE BRIEF. I WILL BE GLAD TO HAVE QUESTIONS AT ANY TIME DURING MY COMMENTS. AND, OF COURSE, IT WILL BE OPEN SEASON AT THE CONCLUSION OF MY REMARKS. I WILL COMMENT TODAY ON A NUMBER OF PROVISIONS OF SF271, BUT OVERRIDING ALL OF THE LATER STATEMENTS IS THE FACT THAT THIS BILL GREATLY ERODES OUR RIGHT TO MANAGE. THIS IS AN INHERENT RIGHT AND ABSOLUTELY NECESSARY IF WE ARE TO DO THE BEST JOB IN THE INTEREST OF OUR COMPANY, EMPLOYEES, AND STOCKHOLDERS. IN VIEW OF THE STAKE THE STATE OF ALASKA HAS IN OUR PERFORMANCE, SUCCESSES AND FAILURES, THE LACK OF MANAGEMENT CONTROL, I BELIEVE, WILL FAR OUTWEIGH THE PROVISIONS OF THIS BILL AND SHOULD BE A FACTOR IN YOUR DELIBERATIONS. THE "RIGHT TO MANAGE" IS UNIVERSALLY RECOGNIZED AND IN MY NEARLY 40 YEARS WITH SOHIO I HAVE NEVER SIGNED A CONTRACT (AND THERE HAVE BEEN MANY) WITH A UNION OR A NONUNION CONTRACTOR WHICH DID NOT CONTAIN REFERENCE TO MANAGEMENT RIGHTS AS FOLLOWS:

#### MANAGEMENT RIGHTS

SOHIO RETAINS FULL AND EXCLUSIVE AUTHORITY FOR THE MANAGEMENT OF ITS OPERATION. SOHIO RETAINS THE RIGHT TO DIRECT THE WORKING FORCE, INCLUDING THE HIRING, PROMOTIONS,

TRANSFERS, DISCIPLINE OR DISCHARGE OF EMPLOYEES: THE SELECTION OF FOREMAN; THE ASSIGNMENT OF OVERTIME WORK AND THE DETERMINATION OF WHEN IT SHALL BE WORKED. NO RULES, CUSTOMS, OR PRACTICES WHICH LIMITS OUR PRODUCTIVITY, EFFICIENCY OR THE INDIVIDUAL AND/OR JOINT WORKING EFFORTS OF EMPLOYEES SHALL BE PERMITTED.

SB271 REMOVES FROM SOHIO A LARGE PORTION OF THESE MANAGEMENT RIGHTS AND WE BELIEVE IN THE OVERALL IT WILL WORK TO THE DETRIMENT OF THE STATE. NONE OF THE FOREGOING SHOULD BE INTERPRETED THAT SOHIO WILL NOT CONTINUE ITS GOOD FAITH EFFORT TO HAVE ALASKANS IN THE JOBS WITHOUT A LEGISLATIVE REQUIREMENT TO DO SO.

THE FOREGOING IS OUR BASIC OBJECTION, BUT WE HAVE THE FOLLOWING ADDITIONAL QUESTIONS AND COMMENTS:

- I. IF THE BILL IS UNCONSTITUTIONAL WE WILL ALL FIND OUT LATER, BUT PASSING THIS QUESTION FOR THE MOMENT, IT APPEARS THE BILL IS PUNITIVE IN NATURE OR PERHAPS THE KINDEST THING THAT COULD BE SAID IS THAT IT'S GROSSLY UNFAIR IN THAT ITS APPLICATION IS LIMITED TO THE OIL INDUSTRY AND ITS SUPPORT CONTRACTORS - NOT MENTIONING OUR OTHER INDUSTRIES UTILIZING MUCH HIGHER PERCENTAGES OF NONRESIDENTS.

AN ALASKAN DOL ANALYSIS UPDATED TO MARCH 31, 1985 CONTINUES AS FOLLOWS NONRESIDENT EMPLOYMENT IN BUSINESSES AND INDUSTRIES IN THE STATE.

- A. FOOD PROCESSING (75% NONRESIDENTS).
- B. EATING AND DRINKING PLACES (51%).
- C. MINING OTHER THAN OIL AND GAS (48%).
- D. LOGGING AND LUMBER (48%)
- E. CONSTRUCTION (45%).
- F. HOTELS (44%).
- G. BUSINESS SERVICES (44%).
- H. FISHERIES ?
- I. TOURISM ?

*oil - 4% ??*

THE OIL INDUSTRY DOES NOT EVEN MAKE THE SCOREBOARD. BY WHAT LOGIC ARE THESE BUSINESSES EXCLUDED FROM SB 271? THIS INFORMATION FLIES IN THE FACE OF LEGISLATIVE FINDINGS (2).

2. LEGISLATIVE FINDINGS (4) (5) REFERS TO THE INVESTMENT BY THE STATE IN TRAINING PROGRAMS. WHILE I AM NOT FAMILIAR WITH ANY SPECIFIC TRAINING PROGRAMS CONDUCTED FOR THE PRIVATE SECTOR, WE APPRECIATE AND COMMEND THE STATE FOR THEIR SUPPORT OF VOCATIONAL EDUCATION. SOHIO HAS MADE SUBSTANTIAL USE OF THESE FACILITIES TO TRAIN ALASKAN WORKERS. WE HAVE PAID TUITION OF \$125,000 OVER THE LAST FIVE YEARS TO THE VOC-ED FACILITIES AND HAVE ALSO AWARDED SCHOLARSHIPS AMOUNTING TO \$38,000 TO GRADUATES THROUGHOUT THE STATE FOR ATTENDANCE AT OTHER INSTITUTIONS. WE DO NOT BELIEVE THE STATE'S INVESTMENTS HAVE BEEN OF LITTLE AVAIL.

3. SECTION 38.45.030 RESIDENT HIRE PASSES THE RESPONSIBILITY OF PREPARING REGULATIONS AND ADMINISTERING PROVISIONS OF THE BILL TO THE COMMISSIONER OF LABOR AND THE COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES.

THE COMMISSIONER OF LABOR IS CHARGED WITH 17 DISTRICT RESPONSIBILITIES, INCLUDING THE ASSESSMENT PENALTIES, WHICH I WILL NOT REPEAT.

THE COMMISSIONER OF DNR HAS THE RESPONSIBILITY TO STUDY AND EVALUATE DOL CERTIFICATION, INVESTIGATION AND HOLD HERINGS, AND, IF WILLFULL NONCOMPLIANCE IS DETERMINED THE COMMISSIONER CAN IMPOSE SEVERE PENALTIES.

IN ADDITION, DOL OR DNR MAY SEEK INJUNCTIVE RELIEF AGAINST A PERSON WHO IS NOT IN COMPLIANCE.

4. INsofar AS THE EMPLOYER IS CONCERNED HE MUST, IN THE INTEREST OF GOOD BUSINESS, CONSIDER AND MAKE A JUDGMENT ON AT LEAST ELEVEN ISSUES, MOST OF WHICH ENCROACH ON HIS RIGHT TO MANAGE.

5. INsofar AS THE STATE IS CONCERNED SB271 CERTAINLY DOES NOT ENCOURAGE INVESTMENT IN OIL DEVELOPMENT, AND IT COULD PREVENT THE LOWEST COST DEVELOPMENT WHICH MAY BE NECESSARY FOR FOR THE MARGINAL FIELDS WE EXPECT TO BE WORKING WITH.

IF PASSED, SB271 WILL CERTAINLY RESULT IN HIGHER ADMINISTRATIVE COSTS IF ALL OF THE PROVISIONS ARE CARRIED OUT. I AM CURIOUS AS TO WHETHER OR NOT THIS POINT HAS BEEN CONSIDERED.

THE STATE WILL ACQUIRE A BILL THAT IS BASICALLY UNINFORCEABLE, AND ASSURES THE CERTAINTY OF MANY LAWSUITS FILED BY INDIVIDUALS, THE INDUSTRY AND ITS ASSOCIATED CONTRACTORS.

6. FINALLY, IT'S COUNTERPRODUCTIVE TO THE STATE POLICY CONTAINED N SECTION 38.45.010.

THIS CCNCLUDES MY PREPARED REMARKS.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

**DRAFT**

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CS SB 271  
 Title: "An Act requiring resident hire under certain gas & oil leases"  
 Sponsor: Josephson, et. al.  
 Requestor: Seante Labor & Commerce  
 Date of Request: 4/15/85

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
<b>OPERATING</b>						
100 PERSONAL SERVICES		69.3	71.7	193.4	200.1	207.2
200 TRAVEL		8.5	9.0	40.7	43.1	45.7
300 CONTRACTUAL		22.4	18.4	49.2	52.1	55.3
400 SUPPLIES		1.5	1.6	3.4	3.6	3.8
500 EQUIPMENT		13.2	0	5.4	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>114.9</b>	<b>100.7</b>	<b>292.1</b>	<b>298.9</b>	<b>312.0</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND		114.9	100.7	292.1	298.9	312.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>114.9</b>	<b>100.7</b>	<b>292.1</b>	<b>298.9</b>	<b>312.0</b>

POSITIONS:

FULL-TIME		2	2	5	5	5
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: <sup>118</sup> Robert J. Bacolas, Sr. Phone: 465-4870

Division: Labor Standards & Safety Date: 4/17/85

Approved by Commissioner: <sup>112</sup> Jim Robison Date: 4/17/85

Agency: Labor

Distribution (by Agency preparing fiscal note):

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

Fiscal note

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA  
THE FOURTEENTH LEGISLATURE  
BILL/RESOLUTION NO.: CS SB 271  
TITLE: "An Act requiring resident hire under certain oil & gas leases"  
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

One Wage and Hour Investigator 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 \$15,600 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		PAGE/LINE		APPROV.		DISAPP.	
2. TYPE OF POSITION PFT		ELECTION DISTRICT		COV.		LEG.	
3. CONTRIBUTION LEVEL		BARG. UNIT		GGU			
4. TYPE OF EXPENDITURE		LOCATION		ANCHORAGE			
5. PERSONAL SERVICES		RRU PRIORITY		16A			
6. Salary		JUSTIFICATION					
7. Benefits		This position would monitor new or re-negotiated oil and gas leases to ensure compliance with resident hire laws.					
8. Supplemental Benefits		The position would interact with the Department of Natural Resources and industry contacts to establish an effective monitoring procedure.					
9. Fixed Benefits		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.					
10. TOTAL PERSONAL SERVICES		42,547					
11. Travel		8,500					
12. Contractual		9,490					
13. Commodities		500					
14. Equipment		1,600					
15. Other							
16. TOTAL COST		62,637					
17. RECEIPT CODE		FUNDING SOURCE					
18. Federal Receipts 1002							
19. G.F. Match 1003							
20. General Funds 1004							
21. I-A Receipts 1005							
22. Program Receipts 1020							
23. Other							
24. TOTAL COST		62,637					

**FY 86**

Page 1 of 2  
 Revised Date

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

LEG:F:

FOR BGM USE ONLY  
 KEY NUMBER

REQUEST FOR  
 NEW POSITION

1.	POSITION TITLE Clerk Typist III	STAFF MONTHS 12	RP NUMBER	PCH NUMBER
2.	TYPE OF POSITION PFT	ADDITION		
3.	CONTINUATION LEVEL			
4.	TYPE OF EXPENDITURE			AMOUNT
5.	PERSONAL SERVICES	1	2	
6.	Salary		19,572	
7.	Benefits		3,261	
8.	Supplemental Benefits		1,200	
9.	Fixed Benefits		2,735	
10.	TOTAL PERSONAL SERVICES	01		26,768
11.	Travel	02		0
12.	Contractual	03		7,948
13.	Commodities	04		1,000
14.	Equipment	05		1,600
15.	Other			
	TOTAL COST			37,316

16. RECEIPT CODE

17. FUNDING SOURCE

18. Federal Receipts 1002

19. G.F. Match 1003

20. General Funds 1004

21. I-A Receipts 1005

Program Receipts 1020

Other

FOR B&H USE ONLY

KEY NUMBER

1. RANGE/STLP 8A

2. URU PRIORITY

3. JUSTIFICATION

4. BARG. UNIT LOCATION Anchorage

5. PAGE/LINE

6. ELECTION DISTRICT

7. GOV. LEG.

8. APPROV. DIS/STP.

This clerical position would provide typing, filing, and data entry under the provisions of this bill.

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.

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage & Hour Administration

Page 2 of 2

Revised Date

LEG:F

FY 86

REQUEST FOR NEW POSITION

Bill No. Senate Bill No. 271

Date April 16, 1985

Title "An Act requiring resident hire under certain oil and gas leases and unitization agreements on state land; and providing for an effective date."

Contact: Robert W. Landau  
465-2700  
Eileen Plate  
465-2700

Senate Bill 271 would establish a resident hire preference for all employment on oil and gas projects on state land.

Under the bill, the Department of Labor would be primarily responsible for: (1) establishing resident hire requirements for each oil and gas project on state land; (2) maintaining and making available a list of qualified residents seeking employment on oil and gas projects; (3) establishing and monitoring employer reporting requirements; (4) conducting investigations and holding hearings to determine compliance with resident hire requirements; (5) seeking monetary penalties and/or injunctive relief for noncompliance; and (6) promulgating requirements for oil and gas projects on state land.

Because of the beneficial impact of resident hiring on the workforce and the economy in general, the Department strongly endorses the principle that qualified Alaska residents should be given employment preference on oil and gas projects on state land. This is consistent with the view that a state is entitled to give preference to its own citizens in the development of the state's natural resources.

Although the Department supports SB 271, the bill as presently drafted would have a significant fiscal impact. We believe this impact could be reduced through the following refinements to the language of the bill:

- 1) Because of the substantial cost involved in establishing and maintaining a comprehensive list of all qualified residents for oil and gas employment, AS 38.45.030(d) should be amended to require that, upon the receipt of an employer job order for oil and gas employment, the Department will then screen its applicant pool for qualified residents and make the appropriate referrals. It would be very costly to maintain an updated list of all qualified residents interested in oil and gas employment.

In addition, making such a list available to employment agencies, unions, and other entities would run afoul of both state and federal confidentiality laws. Once such an "official" list of qualified applicants is circulated, the potential for abuse of that list is enormous. In its place, the Department recommends a job order/referral system similar to what is currently done on public construction projects.

- 2) Rather than require the Commissioner of Labor to evaluate each oil and gas project on state land and establish resident hire requirements for that project, AS 38.45.030 should simply require that Alaska residents be employed on all oil and gas projects on state

**POSITION PAPER/Department of Labor**

land where they are available and qualified. Where employers are unable to find available and qualified residents, the Department could then issue a "waiver" for the employment of a nonresident (as it currently does with public construction employment). This approach would shift the burden of a project labor evaluation onto the employer (who is normally in a better position to make the evaluation) and would preserve the Department's resources for supplying qualified resident applicants and, if none are available, for issuing the necessary waivers.

- 3) Under AS 38.45.050, certain cost savings could be achieved by statutorily establishing a minimum monetary value threshold for covered oil and gas projects rather than requiring the Department to engage in a complex cost-benefit analysis through the administrative regulations process.

Approved:



Jim Robison  
Commissioner



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

CSSB 271: Sectional Analysis

Section 1) Adds a new chapter:

- 38.45.010: Declares that the state policy for development of natural resources includes providing employment opportunities in natural resource development projects.
- 38.45.020: Legislative Findings: references findings about unemployment in the state, investments the state has made in training programs to develop a qualified work force, the social burdens which result from resident workers being displaced by non residents, and the need for a resident employment preference.
- 38.45.030: a) employers of natural resource development projects on state lands shall meet the resident hiring requirements established by the commissioner of labor, and may not discriminate against qualified residents for employment.
- b) the commissioner of labor shall determine the amount of work that must be performed by residents on a natural resource development project on state land. Commissioner shall consider employment factors, and require an employer to make a "maximum feasible effort" to hire qualified residents for jobs on state lands.
- c) Commissioner of DNR shall incorporate into each lease, unitization agreement, or renegotiation lease, provisions requiring compliance with this chapter and authorizing penalties for non compliance.
- d) Employers subject to resident hiring requirements may request the Dept of Labor to assist in locating qualified residents. If the department is unable to refer a sufficient number of qualified residents, it may approve the hiring of nonresidents for the balance of the request.
- 38.45.040: employers obligated to meet hiring requirements under this chapter shall comply with reporting requirements deemed necessary by the commissioner of Labor.

38.45.050: This chapter applies to all natural resource projects on state land, and the Dept of Labor will determine the extent of the resident hire preference for each project. Resident preference applies only to work performed directly for an employer.

38.45.060: a) Both DOL and DNR shall adopt regs for this chapter. DOL shall adopt regs prohibiting discrimination against qualified residents for resource development projects on state land. These regs are subject to the Administrative Procedures Act except as provided in (b).

(b) An employer shall judge the work qualifications of an applicant, however an applicant who has been rejected or terminated may, within 30 days, request a hearing before DOL to determine whether the employer violated the provisions of this chapter. DOL shall hold a hearing within 20 days of receipt of the request unless the employee requests a longer period of time. The administrative procedures act does not apply to this section.

(c) DOL may conduct investigations and hearings to determine compliance with this chapter. If they determine an employer has "wilfully" failed to comply, the commissioner may certify that finding to DNR.

38.45.070: PENALTIES: If DOL finds that an employer has rejected or terminated a qualified employee in violation of this chapter, the department may require the employer to pay 3 times the lost wages to the employee and may require additional amounts if the employee's actual expenses incurred exceed the triple wages assessed. Either party may appeal the decision to the superior court.

Upon certification of noncompliance by DOL, DNR may investigate and conduct hearings. If DNR determines "wilful" noncompliance, they may impose the following penalties:

- 1) increase the compensation received by the state thru a lease or agreement by a factor of no more than 10; not to exceed \$100,000
- 2) require all or a portion of the project to cease;
- 3) remove the eligibility for contracting with the state or it's political subdivisions for a period not to exceed three years; or
- 4) require a noncompliance payment in liquidated damages to the State. Damages may be in an amount equal to 7.5 times the amount of required hours not worked times the "going wage" for the job.

38.45.080: In addition to the penalties imposed, DOL and DNR may seek an injunction for noncompliance with this chapter. DNR may seek an injunction to enforce penalties imposed.

38.45.090: Definitions:

- 1) "employer" is a person, other than the state, who is a party to a lease agreement for a resource development project on state land. This definition includes an affiliate, principal, subsidiary, contractor, or subcontractor if the activity is performed on state land.
- 2) "natural resource project on state land" is a contract, lease, unitization agreement, or renegotiation of such leases for the development of oil and gas, timber, and mineral resources on state land.
- 3) "qualified resident" is defined as a resident who has the necessary training or skills to perform the work.
- 4) "resident" is defined as a person who has been in the state for 30 days prior to entering into a contract for employment on a natural resource development project on state land, and who shows the intention to permanently reside in the state.

Section 2) Chapter applies to a lease, a unitization agreement, or a renegotiated lease or agreement for the development of O&G, timber, or minerals, after the effective date of this act. This chapter also applies to the renegotiation of an agreement entered into before the effective date of this act, if the renegotiation results in a major change to the duties of the parties.

Section 3) Immediate effective date.

Introduced: 4/8/85  
Referred: Labor and Commerce  
Resources

BY JOSEPHSON, KERTTULA  
V. FISCHER AND ZHAROFF

1 IN THE SENATE

2

SENATE BILL NO. 271

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act requiring resident hire under certain oil and  
7 gas leases and unitization agreements on state land;  
8 and providing for an 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 rate of unemployment among residents of the state  
20 is one of the highest in the nation;

21

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

26

(3) whereas at an earlier stage of the state's history it  
27 was asserted that high unemployment in the state was due to cultural  
28 and geographical migration barriers, the state now has many residents  
29 who are qualified, trained, and available for employment in the

1 exploration, development, and production of oil and gas on state land,  
2 but who are not presently employed because an increasing amount of the  
3 work they are qualified to perform is being performed on state land by  
4 nonresidents;

5 (4) the state has made significant investments in training  
6 programs and vocational education to help furnish industry with qual-  
7 ified residents able to work in the development, exploration, and  
8 production of oil and gas products on state land;

9 (5) unless the trend towards hiring nonresidents is re-  
10 versed, the state's investment in these training and education pro-  
11 grams will be of little avail, the state policy of maximizing benefits  
12 from natural resource development will be thwarted, and the state will  
13 suffer the burdens wrought by increasing demands for public assistance  
14 and other state services from unemployed residents and their families;

15 (6) employment of nonresidents displaces qualified resi-  
16 dents from work in the development, exploration and production of oil  
17 and gas products on state land and from work in service occupations on  
18 state land that directly support the development, exploration, and  
19 production activities; therefore, the growing number of nonresidents  
20 hired for work on state land, in the development, exploration, and  
21 production of state resources, is a peculiar source of the unemploy-  
22 ment evil now besetting the state;

23 (7) state policies favoring stable levels of taxation have  
24 been predicated upon assurances from the oil and gas industry that  
25 state residents would receive employment opportunities in the explora-  
26 tion, development, and production of oil and gas from state-owned  
27 land, but data show that these assurances, and the expectations they  
28 created, are not being fulfilled.

29 Sec. 38.45.030. RESIDENT HIRE. (a) An employer shall meet the

1 resident hiring requirements established by the commissioner of labor  
2 under this section on an oil and gas project on state lands that is  
3 subject to a hiring preference under AS 38.45.050. An employer may  
4 not discriminate against qualified residents in employment on an oil  
5 and gas project on state land.

6 (b) The commissioner of labor shall determine the amount of work  
7 that must be performed under this chapter by qualified residents on an  
8 oil and gas project on state land. In making this determination, the  
9 commissioner shall consider the nature of the work, the classification  
10 of workers, availability of residents, and the willingness of resi-  
11 dents to perform the work. The commissioner shall require an employer  
12 to make the maximum feasible effort to hire qualified residents for  
13 jobs on state land.

14 (c) In order to create, protect, and preserve the right of qual-  
15 ified residents to employment in oil and gas projects on state land  
16 the commissioner of natural resources shall incorporate into each  
17 lease, unitization agreement, or renegotiation of a lease or agree-  
18 ment, provisions requiring compliance with this chapter and authoriz-  
19 ing penalties under AS 38.45.070 for failure to comply.

20 (d) The Department of Labor shall maintain a file of the names  
21 of qualified residents seeking employment on an oil and gas project on  
22 state land. The department shall make the file available to an em-  
23 ployer and to an employment or dispatching agency, union, or other  
24 similar entity.

25 Sec. 38.45.040. REPORTING PROVISIONS. An employer obligated to  
26 meet resident hiring requirements under this chapter shall comply with  
27 the reporting provisions that the commissioner of labor determines are  
28 reasonably necessary to carry out this chapter.

29 Sec. 38.45.050. APPLICABILITY OF CHAPTER. (a) The Department

- DNR??

1 of Labor shall determine by regulation the minimum monetary value for  
2 projects subject to the resident hiring preference under this chapter.  
3 In determining the minimum value, the department shall compare the  
4 benefit that enures to state residents with administrative and en-  
5 forcement costs.

6 (b) An employer shall submit to the department evidence of the  
7 monetary value of an oil and gas project on state land. The depart-  
8 ment shall determine whether the project is subject to a hiring pref-  
9 erence. If the project is subject to a hiring preference, the depart-  
10 ment shall determine the extent of the preference under AS 38.45.030.  
11 The preference applies only to employment that is performed directly  
12 for an employer. The department shall ensure that projects or activ-  
13 ities within projects are not artificially divided to prevent coverage  
14 under this chapter. If the department finds evidence of artificial  
15 division, the burden is on the employer to show that the division is  
16 not artificial.

17 Sec. 38.45.060. REGULATIONS AND HEARINGS. (a) The Department  
18 of Labor and the Department of Natural Resources shall adopt regula-  
19 tions to implement this chapter. The Department of Labor shall adopt  
20 regulations prohibiting discrimination against qualified residents in  
21 employment on an oil and gas project on state land. Regulations and  
22 proceedings under this chapter are subject to the Administrative  
23 Procedure Act (AS 44.62) except as provided in (b) of this section.

24 (b) An employer shall determine and judge the work qualifica-  
25 tions of applicants for employment. An applicant who has been reject-  
26 ed or an employee who has been terminated from employment may request  
27 a hearing before the Department of Labor to determine whether the  
28 employer violated this chapter in denying the application or terminat-  
29 ing the employment. The Department of Labor shall hold a hearing on

1 the question within 10 days of receipt of the request unless the  
2 applicant or employee requests a longer period of time.

3 (c) The Department of Labor may conduct investigations and  
4 hearings to determine compliance with this chapter. If the commis-  
5 sioner of labor finds that an employer has wilfully failed to comply  
6 with this chapter, the commissioner may certify the finding to the  
7 Department of Natural Resources.

8 Sec. 38.45.070. PENALTIES. (a) If the Department of Labor  
9 finds that an employer has rejected a qualified applicant or term-  
10 inated a qualified employee from employment in violation of this  
11 chapter, the department may require the employer to pay the person  
12 three times the amount of wages the person lost and may require addi-  
13 tional amounts if the person's actual expenses incurred as a result of  
14 the wrongful action exceeded the triple wages assessed. Either party  
15 may appeal the department's decision under this section to the su-  
16 perior court. The court shall hear the appeal de novo.

17 (b) The Department of Natural Resources, upon certification of  
18 noncompliance by the Department of Labor, under AS 38.45.060, may  
19 investigate and conduct hearings. If it finds wilful noncompliance,  
20 the department may impose on the employer any of the following pen-  
21 alties, as appropriate:

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

25 (2) require that all or a portion of project operations  
26 cease;

27 (3) remove, for an appropriate period of time not to exceed  
28 \_\_\_ years, the ability of the employer to contract with the state or  
29 any of its political subdivisions; or

1 (4) require a noncompliance payment in liquidated damages  
2 to the state in an amount equal to seven and one-half times the number  
3 of hours required but not worked by qualified residents, times the  
4 going wage or salary rate for the particular job or activity involved.

5 Sec. 38.45.080. INJUNCTIVE RELIEF. The Department of Labor or  
6 the Department of Natural Resources, in addition to the imposition of  
7 penalties under AS 38.45.070, may seek injunctive relief against a  
8 person who is not in compliance with this chapter; the Department of  
9 Natural Resources may seek injunctive relief to enforce penalties  
10 imposed under AS 38.45.070.

11 Sec. 38.45.090. DEFINITIONS. In this chapter

12 (1) "employer" means a person other than the state who is a  
13 party to a lease or agreement for an oil and gas project on state land  
14 and includes the person's affiliate, principal, subsidiary, contrac-  
15 tor, or subcontractor if the activity of the affiliate, principal,  
16 subsidiary, contractor, or subcontractor is performed on state land;

17 (2) "oil and gas project on state land" means an oil and  
18 gas lease, a unitization agreement, or any renegotiation of a lease or  
19 agreement if the state is a party to the lease or agreement and the  
20 project is performed in whole or in part on state land;

21 (3) "resident" means a person who

22 (A) except for military service, has been physically  
23 present in the state for a period of 30 days immediately before  
24 the time the person enters into a contract of employment on an  
25 oil and gas project on state land; and

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

28 \* Sec. 2. This chapter applies to an oil and gas lease, a unitization  
29 agreement, or a renegotiation of a lease or agreement entered into on or

1 after the effective date of this Act.

2 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-

3 10.070(c).

Chairman's Information:

- 1) CSSB 271(L&C) "An act requiring resident hire on certain natural resource projects on state land; and providing for an effective date."
  - a) Introduced: Sen Josephson, Kerttula, V Fischer, Zharoff
  - b) Co-Sponsors:
- 2) INTENT: This legislation establishes a resident hire preference for natural resource development projects on state land. The bill outlines the responsibilities of the Dept of Labor and DNR regarding resident hire, and establishes penalties to be imposed upon employers who are in noncompliance with this Chapter.

FISCAL NOTE: Fiscal Note being prepared by the Dept of Labor;

NOTE: Need to move for the adoption of L&C CS and title change

- 3) ADDITIONAL REFERRALS: Resources and Finance
- 4) PUBLIC HEARINGS:
  - a) Sponsor:
  - b) Public witnesses:
- 5) BILL ACTION:
  - a) Hold in committee?
  - b) Assign to sub committee for further review?
  - c) Move from Committee?
  - d) close public hearings?
- 6) COMMITTEE ACTION:
  - a) amendments?
  - b) CS adoption?

Cramer  
4/27/85 ✓

Original sponsors: Josephson, Kerrettula,  
V.Fischer and Zharoff

1  
2 IN THE SENATE

BY THE LABOR AND  
COMMERCE COMMITTEE

3 CS FOR SENATE BILL NO. 271 (L&C)  
4 IN THE LEGISLATURE OF THE STATE OF ALASKA  
5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

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

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

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

12 CHAPTER 45. RESIDENT EMPLOYMENT PREFERENCE UNDER STATE LEASES.

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

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

20 (1) because of its unique climate and its distance from the  
21 contiguous states, the state has historically suffered from unique  
22 social, seasonal, geographic, and economic conditions that result in  
23 an unstable economy;

24 (2) the unstable economy is a hardship on the residents of  
25 the state and is aggravated by the large numbers of seasonal and  
26 transient nonresident workers;

27 (3) the rate of unemployment among residents of the state  
28 is one of the highest in the nation;

29 (4) the state has one of the highest ratios of nonresident  
to resident workers in the nation;

1  
2 (5) the state has a compelling interest in reducing t  
3 level of unemployment among its residents;

4 (6) a major factor of increasing importance in the une  
5 mployment problem is the failure of employers engaged in the explor  
6 tion, development, and production of natural resources on state lan  
7 and under leases or other agreements granted or permitted by t  
8 state, to employ state residents;

9 (7) whereas at an earlier stage of the state's history  
10 was asserted that high unemployment in the state was due to cultur  
11 and geographical migration barriers, the state now has many residen  
12 who are qualified, trained, and available for employment in the expl  
13 ration, development, production, and extraction of natural resourc  
14 on state land, but who are not presently employed because an increa  
15 sing amount of the work they are qualified to perform is being pe  
16 formed on state land by nonresidents;

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

21 (9) unless the trend towards hiring nonresidents is r  
22 versed, the state's investment in these training and education pr  
23 grams will be of little avail, the state policy of maximizing benefi  
24 from natural resource development will be thwarted, and the state wi  
25 suffer the burdens wrought by increasing demands for public assistan  
26 and other state services from unemployed residents and their familie

27 (10) employment of nonresidents displaces qualified res  
28 dents from work in the development, exploration, production, an  
29 extraction of natural resource products on state land and from work  
service occupations on state land that directly support the develop

1  
2 ment, exploration, and production activities; therefore, the growi  
3 number of nonresidents hired for work on state land, in the develo  
4 ment, exploration, production, and extraction of state resources, is  
5 peculiar source of the unemployment evil now besetting the state;

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

12 Sec. 38.45.030. RESIDENT HIRE REQUIREMENTS. (a) An employe  
13 shall meet the resident hiring requirements established by the commis  
14 sioner of labor under this section on a natural resource project o  
15 state land that is subject to a hiring preference under AS 38.45.050.  
16 An employer may not discriminate against qualified residents in em  
17 ployment on a natural resource project on state land.

18 (b) The commissioner of labor shall determine the amount of wor  
19 that must be performed under this chapter by qualified residents on  
20 natural resource project on state land. In making this determination  
21 the commissioner shall consider the nature of the work, the classi  
22 fication of workers, availability of residents, and the willingness o  
23 residents to perform the work. The commissioner shall require a  
24 employer to make the maximum feasible effort to hire qualified resi  
25 dents for jobs on state land.

26 (c) In order to create, protect, and preserve the right of qual  
27 ified residents to employment in natural resource projects on stat  
28 land, the commissioner of natural resources shall incorporate int  
29 each lease, unitization agreement, or renegotiation of a lease o  
agreement, provisions requiring compliance with this chapter, regula

1  
2 tions adopted under this chapter, and all later amendments to th  
3 chapter or the regulations, and authorizing penalties under AS 38.45  
4 070 for failure to comply. The commissioner shall incorporate in  
5 each lease, agreement, or renegotiation a requirement that the less  
6 include a provision requiring compliance with this chapter, lat  
7 amendments of this chapter, regulations adopted under this chapter a  
8 authorizing penalties under AS 38.45.070 in a contract under the lea  
9 or agreement with contractors or subcontractors who will be operati  
10 on state land.

11 (d) An employer subject to resident hiring requirements und  
12 this chapter may request the Department of Labor to assist in loca  
13 ing qualified available resident employees. After receiving a reques  
14 for assistance, the department shall refer qualified availabl  
15 residents to the employer to fill the employer's hiring needs. If th  
16 department is unable to refer a sufficient number of residents, it ma  
17 approve the hiring of nonresidents for the balance of the request.

18 Sec. 38.45.040. REPORTING PROVISIONS. An employer obligated t  
19 meet resident hiring requirements under this chapter shall comply wit  
20 the reporting provisions that the commissioner of labor determines ar  
21 reasonably necessary to carry out this chapter.

22 Sec. 38.45.050. APPLICABILITY OF CHAPTER. This chapter applic  
23 to all natural resource projects on state land. The Department c  
24 Labor shall determine the extent of the resident hiring preference fo  
25 each project under AS 38.45.030. The preference applies only t  
26 employment that is performed directly for an employer.

27 Sec. 38.45.060. REGULATIONS AND HEARINGS. (a) The Departmen  
28 of Labor and the Department of Natural Resources shall adopt regula  
29 tions to implement this chapter. The Department of Labor shall adop  
regulations prohibiting discrimination against qualified residents in

1  
2 employment on a natural resource project on state land. Regulation  
3 and proceedings under this chapter are subject to the Administrative  
4 Procedure Act (AS 44.62) except as provided in (b) of this section.

5 (b) An employer shall determine and judge the work qualific  
6 tions of applicants for employment. An applicant who has been reject  
7 ed or an employee who has been terminated from employment may, withi  
8 30 days after the rejection or termination, request a hearing before  
9 the Department of Labor to determine whether the employer violate  
10 this chapter in denying the application or terminating the employment.  
11 The Department of Labor shall hold a hearing on the question within 2  
12 days of receipt of the request unless the applicant or employee re  
13 quests a longer period of time.

14 (c) The Department of Labor may conduct investigations an  
15 hearings to determine compliance with this chapter. If the commis  
16 sioner of labor finds that an employer has wilfully failed to compl  
17 with this chapter, the commissioner may certify the finding to th  
18 Department of Natural Resources.

19 Sec. 38.45.070. PENALTIES. (a) If the Department of Labo  
20 finds that an employer has rejected a qualified applicant or term  
21 inated a qualified employee from employment in violation of thi  
22 chapter, the department may require the employer to pay the perso  
23 three times the amount of wages the person lost and may require addi  
24 tional amounts if the person's actual expenses incurred as a result o  
25 the wrongful action exceeded the triple wages assessed. Either part  
26 may appeal the department's decision under this section to the su  
27 perior court. The court may hear the appeal de novo.

28 (b) The Department of Natural Resources, upon certification o  
29 noncompliance by the Department of Labor under AS 38.45.060, may  
investigate and conduct hearings. If it finds wilful noncompliance

1  
2 the department may impose on the employer any of the following pe  
3 alties:

4 (1) increase the rent or other forms of compensation r  
5 ceived by the state under the project lease or agreement by a fact  
6 of no more than 10; the increase may not exceed \$100,000;

7 (2) require that all or a portion of project operatio  
8 cease;

9 (3) remove, for an appropriate period of time not to exce  
10 three years, the eligibility of the employer to contract with t  
11 state or any of its political subdivisions; or

12 (4) require a noncompliance payment in liquidated damag  
13 to the state in an amount equal to seven and one-half times the numb  
14 of hours required but not worked by qualified residents multiplied  
15 the going wage or salary rate for the particular job or activi  
16 involved.

17 (c) The commissioner may impose the penalties under (b)(1) a  
18 (2) of this section on a lessee only if the lessee itself has fail  
19 to comply with this chapter or incorporate into the contract with t  
20 violator a provision requiring compliance with this chapter.

21 Sec. 38.45.080. INJUNCTIVE RELIEF. The Department of Labor  
22 the Department of Natural Resources, in addition to the imposition  
23 penalties under AS 38.45.070, may seek injunctive relief against  
24 person who is not in compliance with this chapter; the Department  
25 Natural Resources may seek injunctive relief to enforce penalti  
26 imposed under AS 38.45.070.

27 Sec. 38.45.090. DEFINITIONS. In this chapter

28 (1) "employer" means a person other than the state who is  
29 party to a lease or agreement for a natural resource project on sta  
land and includes the person's affiliate, principal, subsidiary

1  
2 contractor, or subcontractor if the activity of the affiliate, principal,  
3 subsidiary, contractor, or subcontractor is performed on state  
4 land;

5 (2) "natural resource project on state land" means a contract,  
6 lease, unitization agreement, or a renegotiation of a contract,  
7 lease, or agreement for exploration, development, extraction or production  
8 of oil and gas, mineral, or timber resources if the state is a  
9 party to the contract, lease or agreement and the project is performed  
10 in whole or in part on state land;

11 (3) "qualified resident" means a resident who possesses the  
12 requisite education, training, skills, or experience to perform the  
13 work;

14 (4) "resident" means a person who

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

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

21 \* Sec. 2. This chapter applies to a lease, unitization agreement, contract,  
22 contract for the development of oil and gas, or mineral or timber resource  
23 entered into after the effective date of this Act and to a renegotiation of  
24 the lease, agreement or contract. This chapter applies to the renegotiation  
25 after the effective date of this Act of a lease, agreement, or contract  
26 entered into before the effective date of this Act if the renegotiation  
27 results in a major change to the duties of a party.

28 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.  
29 10.070(c).