

SB

126

5-0629B
Cramer
3/25/87

Original sponsors: Hensley and Binkley

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 126 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to payment of overtime and a good
7 faith exception to damages for unpaid overtime,
8 unpaid minimum wages, and liquidated damages; and
9 providing for an effective date."

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

11 * Section 1. AS 23.10.060 is amended by adding a new paragraph to read:
12 (19) work performed under a pay plan approved under AS 23.-
13 10.062.

14 * Sec. 2. AS 23.10 is amended by adding a new section to read:

15 Sec. 23.10.062. IRREGULAR AND FLEXIBLE WORK HOUR PLANS. (a)
16 The department may approve a pay plan that provides fixed rates of pay
17 for irregular or flexible work hours as provided in this section. The
18 department shall review a proposed plan or proposed changes to a plan
19 already approved. A plan or change to an approved plan is not valid
20 until it receives written approval from the department.

21 (b) The department may approve a plan if the plan

22 (1) is entered into under an agreement as part of a collec-
23 tive bargaining contract or in accordance with (c) of this section;
24 and

25 (2) is a flexible work hour plan that provides for a
26 40-hour work week and not more than a 10-hour work day and that re-
27 quires the employer to pay compensation at a rate of one and one-half
28 times the regular rate of pay for work over 40 hours per week or 10
29 hours per day.

1 (c) An employer and an employee shall enter a signed written
2 agreement at the time of hiring establishing the day and place of
3 payment, and the rate of pay for a work plan under this section.
4 These items may not be changed unless the change is agreed to on or
5 before the payday before the time of change.

6 * Sec. 3. AS 23.10 is amended by adding a new section to read:

7 Sec. 23.10.112. GOOD FAITH EXCEPTION. In an action to recover
8 unpaid minimum wages, unpaid overtime compensation, or liquidated
9 damages under AS 23.10.050 - 23.10.150, if the employer shows by clear
10 and convincing evidence that the act or omission giving rise to the
11 action was in good faith and that the employer had reasonable grounds
12 for the act or omission, the court may refuse to award liquidated
13 damages or may award an amount less than the amount established under
14 AS 23.10.110.

15 * Sec. 4. This Act applies to payment of wages for work performed on or
16 after the effective date of this Act.

17 * Sec. 5. ~~AS 23.10.050(17)~~ and 23.10.060(18) are repealed.

18 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).
19
20
21
22
23
24
25
26
27
28
29

5-0629L
Cramer
3/26/87

Original sponsors: Hensley and Binkley

1 IN THE SENATE B .IE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 126 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to employment practices and working
7 conditions; and providing for an effective date."

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

9 * Section 1. AS 23.10.060 is amended by adding a new paragraph to read:

10 (19) work performed under a pay plan approved under AS 23.-
11 10.062.

12 * Sec. 2. AS 23.10 is amended by adding a new section to read:

13 Sec. 23.10.062. IRREGULAR AND FLEXIBLE WORK HOUR PLANS. (a)

14 The department may approve a pay plan that provides fixed rates of pay
15 for irregular or flexible work hours as provided in this section. The
16 department shall review a proposed plan or proposed changes to a plan
17 already approved. A plan or change to an approved plan is not valid
18 until it receives written approval from the department.

19 (b) The department may approve a plan if the plan

20 (1) is entered into under an agreement as part of a collec-
21 tive bargaining contract or in accordance with (c) of this section;
22 and

23 (2) is a flexible work hour plan that provides for a
24 40-hour work week and not more than a 10-hour work day and that re-
25 quires the employer to pay compensation at a rate of one and one-half
26 times the regular rate of pay for work over 40 hours per week or 10
27 hours per day.

28 (c) An employer and an employee shall enter a signed written
29 agreement at the time of hiring establishing the day and place of

1 payment, and the rate of pay for a work plan under this section.
2 These items may not be changed unless the change is agreed to on or
3 before the payday before the time of change.

4 * Sec. 3. AS 23.10 is amended by adding a new section to read:

5 Sec. 23.10.112. GOOD FAITH EXCEPTION. In an action to recover
6 unpaid minimum wages, unpaid overtime compensation, or liquidated
7 damages under AS 23.10.050 - 23.10.150, if the employer shows by clear
8 and convincing evidence that the act or omission giving rise to the
9 action was in good faith and that the employer had reasonable grounds
10 for the act or omission, the court may refuse to award liquidated
11 damages or may award an amount less than the amount established under
12 AS 23.10.110.

13 * Sec. 4. AS 23.10.405 is amended to read:

14 Sec. 23.10.405. LEGISLATIVE DECLARATION OF HAZARD. Employment
15 in underground coal mines, underground lode mines, underground placer
16 mines, in underground coal, lode or placer workings, or in all other
17 underground mines or workings may be [IS] injurious to health and
18 dangerous to life and limb.

19 * Sec. 5. AS 23.10.410(a) is amended to read:

20 (a) A person may not be employed in an underground coal mine,
21 underground lode mine, underground placer mine, underground coal, lode
22 or placer workings, or other underground mine, or workings for more
23 than 10 [EIGHT] hours in 24 hours, except on a day when a change of
24 shift is made, excluding, however, an intermission of time for meals,
25 or otherwise going to or from the place where the work is actually
26 carried on, whether in going on or off shift, or in going to or
27 returning from meals.

28 * Sec. 6. AS 23.10.410(b) is amended to read:

29 (b) It is the purpose of this section to limit the hours of

1 employment in 24 hours to 10 [EIGHT] hours of actual labor at the
2 face, or other place where the work or labor to be done is actually
3 performed.

4 * Sec. 7. Sections 1 - 3 of this Act apply to payment of wages for work
5 performed on or after the effective date of this Act.

6 * Sec. 8. ~~AS 23.10.060(17)~~ and 23.10.060(18) are repealed.

7 * Sec. 9. This Act takes effect immediately under AS 01.10.070(c).
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

5-0629B
Cramer
3/27/87

Original sponsors: Hensley and Binkley

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 126 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to payment of overtime and a good
7 faith exception to damages for unpaid overtime,
8 unpaid minimum wages, and liquidated damages; and
9 providing for an effective date."

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

11 * Section 1. AS 23.10.06C is amended by adding a new paragraph to read:
12 (19) work performed under a pay plan approved under AS 23.-
13 10.062.

14 * Sec. 2. AS 23.10 is amended by adding a new section to read:

15 Sec. 23.10.062. IRREGULAR AND FLEXIBLE WORK HOUR PLANS. (a)
16 The department may approve a pay plan that provides fixed rates of pay
17 for irregular or flexible work hours as provided in this section. The
18 department shall review a proposed plan or proposed changes to a plan
19 already approved. A plan or change to an approved plan is not valid
20 until it receives written approval from the department.

21 (b) The department may approve a plan if the plan

22 (1) is entered into under an agreement as part of a collec-
23 tive bargaining contract or in accordance with (c) of this section;
24 and

25 (2) is a flexible work hour plan that provides for a
26 40-hour work week and not more than a 10-hour work day and that re-
27 quires the employer to pay compensation at a rate of one and one-half
28 times the regular rate of pay for work over 40 hours per week or 10
29 hours per day.

1 (c) An employer and an employee shall enter a signed written
2 agreement at the time of hiring establishing the day and place of
3 payment, and the rate of pay for a work plan under this section.
4 These items may not be changed unless the change is agreed to on or
5 before the payday before the time of change.

6 * Sec. 3. AS 23.10 is amended by adding a new section to read:

7 Sec. 23.10.112. GOOD FAITH EXCEPTION. In an action to recover
8 unpaid minimum wages, unpaid overtime compensation, or liquidated
9 damages under AS 23.10.050 - 23.10.150, if the employer shows by clear
10 and convincing evidence that the act or omission giving rise to the
11 action was in good faith and that the employer had reasonable grounds
12 for the act or omission, the court may refuse to award liquidated
13 damages or may award an amount less than the amount established under
14 AS 23.10.110.

15 * Sec. 4. This Act applies to payment of wages for work performed on or
16 after the effective date of this Act.

17 * Sec. 5. AS 23.10.060(18) is repealed.

18 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).
19
20
21
22
23
24
25
26
27
28
29

Original sponsors: Hensley and Binkley

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 126 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to payment of overtime and a good
7 faith exception to damages for unpaid overtime,
8 unpaid minimum wages, and liquidated damages; and
9 providing for an effective date."

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

11 * Section 1. AS 23.10.060 is amended by adding a new paragraph to read:

12 (19) work performed under a pay plan approved under AS 23.-
13 10.062.

14 * Sec. 2. AS 23.10 is amended by adding a new section to read:

15 Sec. 23.10.062. IRREGULAR AND FLEXIBLE WORK HOUR PLANS. (a)

16 The department may approve a pay plan that provides fixed rates of pay
17 for irregular or flexible work hours as provided in this section. The
18 department shall review a proposed plan or proposed changes to a plan
19 already approved. A plan or change to an approved plan is not valid
20 until it receives written approval from the department.

21 (b) The department may approve a plan if the plan

22 (1) is entered into under an agreement as part of a collec-
23 tive bargaining contract or in accordance with (c) of this section;
24 and

25 (2) is a flexible work hour plan that provides for a
26 40-hour work week and not more than a 10-hour work day and that re-
27 quires the employer to pay compensation at a rate of one and one-half
28 times the regular rate of pay for work over 40 hours per week or 10
29 hours per day.

1 (c) An employer and an employee shall enter a signed written
2 agreement at the time of hiring establishing the day and place of
3 payment, and the rate of pay for a work plan under this section.
4 These items may not be changed unless the change is agreed to on or
5 before the payday before the time of change.

6 * Sec. 3. AS 23.10 is amended by adding a new section to read:

7 Sec. 23.10.112. GOOD FAITH EXCEPTION. In an action to recover
8 unpaid minimum wages, unpaid overtime compensation, or liquidated
9 damages under AS 23.10.050 - 23.10.150, if the employer shows to the
10 satisfaction of the court that the act or omission giving rise to the
11 action was in good faith and that the employer had reasonable grounds
12 for the act or omission, the court may refuse to award liquidated
13 damages or may award an amount less than the amount established under
14 AS 23.10.110.

15 * Sec. 4. This Act applies to payment of wages for work performed on or
16 after the effective date of this Act.

17 * Sec. 5. AS 23.10.060(18) is repealed.

18 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).
19
20
21
22
23
24
25
26
27
28
29

Original sponsors: Hensley and Binkley

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 126 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to payment of overtime and a good
7 faith exception to damages for unpaid overtime,
8 unpaid minimum wages, and liquidated damages; and
9 providing for an effective date."

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

11 * Section 1. AS 23.10.060 is amended by adding a new paragraph to read:

12 (19) work performed under a pay plan approved under AS 23.-
13 10.062.

14 * Sec. 2. AS 23.10 is amended by adding a new section to read:

15 Sec. 23.10.062. IRREGULAR AND FLEXIBLE WORK HOUR PLANS. (a)

16 The department may approve a pay plan that provides fixed rates of pay
17 for irregular or flexible work hours as provided in this section. The
18 department shall review a proposed plan or proposed changes to a plan
19 already approved. A plan or change to an approved plan is not valid
20 until it receives written approval from the department.

21 (b) The department may approve a plan if the plan

22 (1) is entered into under an agreement as part of a collec-
23 tive bargaining contract or in accordance with (c) of this section;
24 and

25 (2) is a flexible work hour plan that provides for a
26 40-hour work week and not more than a 10-hour work day and that re-
27 quires the employer to pay compensation at a rate of one and one-half
28 times the regular rate of pay for work over 40 hours per week or 10
29 hours per day.

1 (c) An employer and an employee shall enter a signed written
2 agreement establishing the day and place of payment, and the rate of
3 pay for a work plan under this section. These items may not be chang-
4 ed unless the change is agreed to on or before the payday before the
5 time of change.

6 * Sec. 3. AS 23.10.110(a) is amended to read:

7 (a) An employer who violates a provision of AS 23.10.060 or
8 23.10.065 is liable to an employee affected in the amount of unpaid
9 minimum wages, or unpaid overtime compensation, as the case may be,
10 and in an additional equal amount as liquidated damages. An employer
11 who raises as a defense that the failure to pay was made in good faith
12 and that the employer had reasonable grounds for the act or omission
13 under AS 23.10.112 shall pay the employee the amount of unpaid minimum
14 wages and unpaid overtime compensation as determined by the depart-
15 ment. The employer may contest the department's determination if an
16 action is brought under (b) of this section and is not required to pay
17 liquidated damages unless ordered to do so by a court of competent
18 jurisdiction under (b) of this section.

19 * Sec. 4. AS 23.10 is amended by adding a new section to read:

20 Sec. 23.10.112. GOOD FAITH EXCEPTION. In an action to recover
21 unpaid minimum wages, unpaid overtime compensation, or liquidated
22 damages under AS 23.10.050 - 23.10.150, if the employer shows to the
23 satisfaction of the court that the act or omission giving rise to the
24 action was in good faith and that the employer had reasonable grounds
25 for the act or omission, the court may refuse to award liquidated
26 damages or may award an amount less than the amount established under
27 AS 23.10.110.

28 * Sec. 5. This Act applies to payment of wages for work performed on or
29 after the effective date of this Act.

1 * Sec. 6. AS 23.10.060(18) is repealed.

2 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

Alaska State Senate

P.O. Box V
Juneau, AK 99811
Phone: (907) 465-2444
465-3862/465-4923



William L. Hensley

Senate Finance Committee
State Affairs Committee
Vice-Chair, Rules Committee
Chair, Administrative Regulation Review

OK
M

MEMORANDUM

DATE: March 3, 1987
TO: Senator Tim Kelly, Chairman
Senate Labor and Commerce Committee
FROM: Senator Willie Hensley *WH*
SUBJ: Senate Bill 126, Flex Time bill

Tim, I would appreciate it if you could schedule Senate Bill 126 on Friday March 13th or shortly thereafter. The Department of Labor should have had sufficient time by then to develop their position on this bill.

Thank you for your consideration of this request.

WLH/mjs

Alaska State Senate

P.O. Box V
Juneau, AK 99811
Phone: (907) 465-2444
465-3862/465-4923



Senate Finance Committee
State Affairs Committee
Vice-Chair, Rules Committee
Chair, Administrative Regulation Review

William L. Hensley

M E M O R A N D U M

DATE: March 30, 1987

TO: Senator Tim Kelly, Chairman
Senate Labor and Commerce Committee

FROM: Senator Willie Hensley *WH*

SUBJ: Senate Bill 126 - Flex Time

Tim, I would like your committee to consider putting out a committee substitute for Senate Bill 126 that had the following features:

1. Keep the 4 tens work week option. Delete the 60 hour options,
2. That the 4 tens options can be a condition of employment, and
3. Retain some form of the "good faith" provision that protects workers from unscrupulous employer pay practices versus penalizing all employers for inadvertent and occasional errors.

Thank you for your consideration of this matter.

WLH/mjs

STATE OF ALASKA

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX 1149
JUNEAU, ALASKA 99802
PHONE: (907) 465-2700

M
/

February 23, 1987

Honorable Tim Kelly, Chairman
Labor and Commerce Committee
Alaska State Senate
Pouch V
Juneau, AK 99811

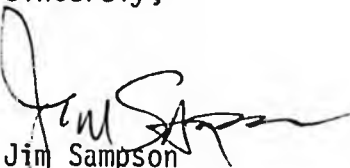
Dear Senator Kelly:

As you know, Senate Bill 126, dealing with the payment of overtime, is scheduled for hearing before the Senate Labor and Commerce Committee on February 25, 1987.

Inasmuch as the provisions of this bill significantly alter the existing overtime law, additional time beyond the February 25 hearing date will be required for the Department of Labor to fully evaluate the bill's affect on Alaska's workers. I would, therefore appreciate any additional time your committee could provide for our review of the bill.

Thank you.

Sincerely,



Jim Sampson
Commissioner

cc: Honorable Willie Hensley
Honorable John Binkley

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version: SB 126
Publish Date: _____

REQUEST: _____

Revision Date: _____
Title: " An Act relating to payment
of overtime "
Sponsor: Hensley and Binkley
SRequestor: Senate Labor & Commerce

Agency Affected: Labor
BRU: Labor Standards & Saftey
Components: Wage and Hour

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

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: ^{NS} Tom Stuart, Director *Stuart* Phone: 465-4870
Division: Labor standards & Saftey Date: 2/25/87

Approved by Commissioner: ^{NS} Jim Sampson Date: 2/25/87
Agency: Labor *Jim Sampson*

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

Bill No. Senate Bill 126

Date March 13, 1987

Title "An Act relating to payment of overtime and a good faith exception to damages for unpaid overtime, unpaid minimum wages, and liquidated damages;"

Contact: Tom Stuart
465-4870

Eileen Plate
465-2700

Senate Bill 126 proposes significant changes to Alaska's overtime law by permitting the use of irregular and flexible work week pay plans and by providing discretion to courts in awarding liquidated damages in actions relating to unpaid wages.

These proposals erode existing statutes which are designed to prevent the exploitation of workers.

The irregular work hour plan proposed provides for payment of a fixed weekly salary for up to 60 hours per week if the nature of the employer's business and the duties of the worker require unpredictable and irregular hours of work that will average 40 hours per week over an extended period. Under such a plan, no overtime is payable unless the work week is in excess of 60 hours, and then overtime would be payable only for those hours in excess of 60 hours. Existing law, on the other hand, requires the payment of overtime after 40 hours per week.

Such irregular work hour plans effectively reduce a worker's rate of pay. For example, following is a comparison of a worker's pay calculated under the proposed irregular work week plan and under existing law. (This comparison assumes a rate of pay of \$400 per week).

Calculation of Pay Under Irregular Work Hour Plan

	<u>Hours Worked</u>	<u>Salary Guaranteed</u>	<u>Overtime pay (\$400÷60x1.5) \$10.00/Hr</u>	<u>Total Pay</u>
Week 1	60	\$400	0	\$400
Week 2	60	\$400	0	\$400
Week 3	60	\$400	0	\$400
Week 4	40	\$400	0	\$400
Week 5	10	\$400	0	\$400
Week 6	10	\$400	0	\$400
	<u>240</u>	<u>\$2400</u>	<u>\$0</u>	<u>\$2400</u>

(Average = 40 hours
per week)

Calculation of Pay under Current Law

	<u>Hours Worked</u>	<u>Regular pay (\$400÷40) \$10.00/Hour</u>	<u>Overtime pay (\$10.00 x 1.5) \$15.00/hour</u>	<u>Total Pay</u>
Week 1	60	\$400	\$300	\$700
Week 2	60	\$400	\$300	\$700
Week 3	60	\$400	\$300	\$700
Week 4	40	\$400	0	\$400
Week 5	10	\$100	0	\$100
Week 6	10	\$100	0	\$100
Total	<u>240</u>	<u>\$1800</u>	<u>\$900</u>	<u>\$2700</u>

As this comparison shows, under the irregular work hour plan, a worker would be paid \$300 less than required under existing law for the same number of hours worked in a six week period.

The flexible work week plan proposed differs from the irregular work hour plan proposal in the following respects.

- (1) The hours of work under a flexible plan need not be uncontrollable or unpredictable; and
- (2) The flexible plan provides for the payment of overtime under a two-tiered calculation, one calculation applying to hours worked in excess of 40 but less than 60 per week and the other applying to hours worked in excess of 60 per week.

The flexible work week plan embraces the concept of reducing a worker's rate of pay as more hours are worked. This is totally contrary to the purpose of overtime laws. (See Attachments 1 and 2 for samples of pay schedules under the proposed flexible work week plan and under current law.)

In addition to being counter to the philosophy upon which overtime laws are based, irregular work hour and flexible work week plans have an extremely high failure rate. In practice, the requirement that the work hours average 40 per week over an extended period does not occur because the work week does not fluctuate below 40 hours to the same extent that it fluctuates above. A determination that a plan is failing of course, is an "after the fact" situation, since the work schedule is not known at the onset of employment under such a plan. Administration of such plans is difficult at best.

This bill also proposes to relieve an employer of mandatory liquidated damages if he fails to prevail in a court action initiated to recover wages if the employer acted in good faith. Current law, on the other hand, mandates the award of liquidated damages in all such actions when the employer fails to prevail.

Relaxation of the liquidated damages requirement will dilute the legal process which now focuses on facts to establish whether or not wages are due. This will protract the litigation process and further delay the payment of wages due Alaska's workers. Further, under such a good faith exception, it would be in an employer's interest to remain unknowledgeable of Alaska's wage and hours laws in order that such a defense could be put forth should a wage action arise. The incentive presently provided for proper payment of wages would be lost under the provisions of this bill.

This bill is not in the best interest of Alaska's workers, and the Department of Labor is opposed to it.

APPROVED:



Jim Sampson, Commissioner
Department of Labor

Sample Pay Schedule Under Proposed Flexible Work Week Plan

Assumes Fixed Rate of Pay of \$400 for up to 60 hour work week

<u>Hours Worked</u>	<u>Fixed Salary</u>	<u>Overtime Rate</u>	<u>Overtime Pay</u>	<u>Total Pay</u>
41	\$400	\$4.87	\$4.87	\$404.87
42	\$400	\$4.77	\$9.54	\$409.54
43	\$400	\$4.65	\$13.95	\$413.95
44	\$400	\$4.55	\$18.20	\$418.20
45	\$400	\$4.45	\$22.25	\$422.25
46	\$400	\$4.34	\$26.04	\$426.04
47	\$400	\$4.26	\$29.82	\$429.82
48	\$400	\$4.17	\$33.36	\$433.36
49	\$400	\$4.08	\$36.72	\$436.72
50	\$400	\$4.00	\$40.00	\$440.00
51	\$400	\$3.92	\$43.12	\$443.12
52	\$400	\$3.85	\$46.20	\$446.20
53	\$400	\$3.77	\$49.01	\$449.01
54	\$400	\$3.70	\$51.80	\$451.86
55	\$400	\$3.64	\$54.60	\$454.60
56	\$400	\$3.57	\$57.12	\$457.12
57	\$400	\$3.51	\$59.67	\$459.67
58	\$400	\$3.44	\$61.92	\$461.92
59	\$400	\$3.39	\$64.61	\$464.61
60	\$400	\$3.33	\$66.60	\$466.60

Note: Calculation of overtime rate = Fixed Salary ÷ hours worked ÷ 2

Sample Pay Schedule for up to 60 Hour Work Week Under Current Law

Assumes regular rate of pay of \$10/hr. (\$400 ÷ 40)

<u>Hours Worked</u>	<u>Regular Pay</u> (10.00/hr.)	<u>Overtime rate</u>	<u>Overtime Pay</u>	<u>Total Pay</u>
41	\$400	\$15.00	\$15.00	\$415.00
42	\$400	\$15.00	\$30.00	\$430.00
43	\$400	\$15.00	\$45.00	\$445.00
44	\$400	\$15.00	\$60.00	\$460.00
45	\$400	\$15.00	\$75.00	\$475.00
46	\$400	\$15.00	\$90.00	\$490.00
47	\$400	\$15.00	\$105.00	\$505.00
48	\$400	\$15.00	\$120.00	\$520.00
49	\$400	\$15.00	\$135.00	\$535.00
50	\$400	\$15.00	\$150.00	\$550.00
51	\$400	\$15.00	\$165.00	\$565.00
52	\$400	\$15.00	\$180.00	\$580.00
53	\$400	\$15.00	\$195.00	\$595.00
54	\$400	\$15.00	\$210.00	\$610.00
55	\$400	\$15.00	\$225.00	\$625.00
56	\$400	\$15.00	\$240.00	\$640.00
57	\$400	\$15.00	\$255.00	\$655.00
58	\$400	\$15.00	\$270.00	\$670.00
59	\$400	\$15.00	\$285.00	\$685.00
60	\$400	\$15.00	\$300.00	\$700.00

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version : SB 126

Publish Date : _____

REQUEST: _____

Revision Date: _____

Title: " An Act relating to payment

of overtime "

Sponsor: Hensley and Binkley

SRequestor: Senate Labor & Commerce

Agency Affected: Labor

BRU: Labor Standards & Saftey

Components: Wage and Hour

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

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: NE Tom Stuart, Director *Stuart* Phone: 465-4870
 Division: Labor standards & Saftey Date: 2/25/87

Approved by Commissioner: Jim Sampson *J. Sampson* Date: 2/25/87
 Agency: Labor

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

The Alaska Legislature should repeal the statutory eight-hour limit on underground mining shifts

The following points should be considered with regard to the request that you repeal A. S. 23.10.405 through 415.

First, this statute is not wage and hour legislation and has nothing whatsoever to do with ensuring that mine workers will be compensated properly. Those legal requirements are contained in other sections of the code.

The statutory language to be repealed has been on the books in Alaska unchanged since 1917. There are no annotations behind these statutory provisions, giving rise to the implication that they have never been construed by the courts. Since there has been very little underground mining in Alaska since World War II, it is not surprising that these sections have not received much attention in recent history.

Section 405 of the act indicates that mining is "injurious to health and dangerous to life and limb." Even if this were true in 1917, many giant strides have been taken since that time to make underground mining a safe profession. For one thing, the federal government has virtually pre-empted the field of underground mine safety with the Federal Mine Safety and Health Act of 1977 (P.L. 95-164). That Act granted to the Secretary of Labor broad authority to regulate conditions underground through the Mine Safety and Health Administration or MSHA. MSHA is a very good watchdog on all underground operations, and MSHA inspectors have made frequent visits to the Greens Creek mine as well as all other underground operations which have been worked on over the past several years. MSHA inspectors are required by law to make their inspections without warning. This requirement, of course, is designed to make mine operators function at a high level of safety at all times, which is very positive.

Mining today is a safer occupation than it was 70 years ago. It is no more dangerous to work ten or twelve hours at a shift underground than it would be to work at any other occupation which involves the use of heavy equipment.

The Greens Creek Mine hopes to be operating within the year with two ten-hour shifts per day underground. If it cannot, because of the existing

requirements of law, employ the miners more than eight hours per shift, it will in effect lose a half shift of production every day even though the costs of transportation and mobilization of each shift will remain the same. The economics of the mine will be severely reduced by such a loss. Clearly, two ten-hour shifts per day is the most economical way to proceed.

The workers at Greens Creek will also prefer the opportunity to work four ten-hour shifts per week rather than five eights, because they will have to spend less time in transit to and from their place of work. In discussing this with the Laborers Union, they have not identified any substantive reason why this statute should not be repealed.

The Alaska Department of Labor Division of Occupational Safety and Health has indicated that it does not enforce this law at this time.

An outright repeal of all three of these sections is requested because although the Greens Creek Mine will probably be the first major underground mine to come on line in Alaska, it may be followed rather quickly by others, and the considerations which dictate their management practices may be different from those of Greens Creek. In order to encourage others, it is recommended that the management of mining companies have the maximum reasonable flexibility in scheduling work shifts underground.

We have had informal discussions with the State Departments of Commerce and Economic Development, Labor, and Natural Resources. No objections by any of those agencies have been identified to us at this time.

It is hoped that this law can be changed during this legislative session because Greens Creek would like to be up and running before the next legislative session convenes. It would be helpful to have this bill adopted this session if for no other reason than to send a clear signal to the world that Alaska supports the efforts of those mining companies like Greens Creek which are trying to get an environmentally sound and socially responsible foothold in the state. In order for the legislation to be most effective, it will have to proceed through the legislature rapidly.

U. S. Department of Labor

Mine Safety and Health Administration
1745 West 1700 South
Salt Lake City, UT 84104



ROCKY MOUNTAIN DISTRICT
Metal/Nonmetal Mine Safety & Health
Salt Lake City Subdistrict
Federal Building, Drawer 10042
Helena, MT 59626 0042

FEB 19 1987

February 17, 1987

MEMORANDUM FOR: Whom It May Concern

FROM: Virgil A. Cain, Supervisory Mine Safety & Health Inspector
Helena, Montana Field Office *Virgil A. Cain*

SUBJECT: Working Hours

This letter deals with the working hours of employees. About five years ago one large mine in my area changed from the eight hours a day, five days a week with two days off to a four day a week, ten hours a day. On the eight hours a day, five days a week, the company had quite a few lost time accidents. After the change to ten hour shifts, four days a week, this company went five months without any accidents and compiled one of the best mining accident records for its size of any mine I have ever had any dealing with.

Just recently this same mine under new management went back to a eight hour day, five days a week and the lost time accidents increased five to six hundred percent. This change has affected the moral of the workers, plus taking away some of their family time.

I am talking about a mine working upto three hundred employees. So what I am really saying, ten hour shifts don't hurt anyone as long as the moral and the time spent with the family plays a big part in the employees work habits and cuts down on accidents.

Presented by: The Assembly
Introduced: 02/09/87
Drafted by: J.P.T.

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 1221

A RESOLUTION URGING THE ALASKA LEGISLATURE TO REPEAL OR AMEND THE STATUTORY EIGHT-HOUR LIMIT ON UNDERGROUND MINING SHIFTS.

WHEREAS, Alaska state law provides that underground mining is a dangerous occupation and that no one should be allowed to work underground more than eight hours in a twenty-four hour period, and

WHEREAS, this law has been on the books in Alaska since 1917 unchanged, and

WHEREAS, present safety and health laws and work standards have made this requirement obsolete, and

WHEREAS, the Greens Creek Mining Company is evaluating the possibility of commencing production from its underground mine on Admiralty Island within the next several months, but could be severely handicapped in maintaining an efficient economic underground operation if it were not able to operate two ten-hour shifts per day;

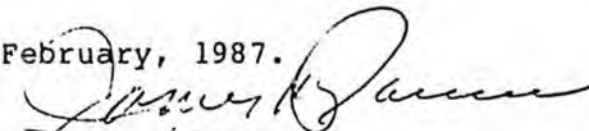
NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

1. That the Legislature of the State of Alaska be and hereby is requested to amend or repeal Article 6 of Title 23 of the Alaska Statutes to restrict or remove the prohibition against a ten-hour underground shift.

2. That the lobbyists for the City and Borough of Juneau be directed to facilitate the introduction and passage of legislation which will accomplish the purposes of this resolution.

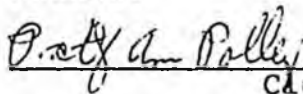
Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this 9th day of February, 1987.



Mayor

Attest:



Clerk