

HB

139

HOUSE BILL 139

TABLE OF CONTENTS

- ITEM 1: Committee Substitute for House Bill 139
- ITEM 2: 0 Fiscal Note - Department of Education
- ITEM 3: 0 Fiscal Note - Depart. of Community & Regional Affairs
- ITEM 4: Memo - Representative Denley, Chairman L&B Committee
- ITEM 5: Newspaper Article
- ITEM 6: C&RA Minutes - 1988 Legislation
- ITEM 7: Statutes

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House CIRA : 3/14/88

HOUSE COMMITTEE REPORT

(5)

Date Referred: February 3, 1989

FURTHER REFERRALS: HESS
FINANCE

Date of Committee Action: 2-16-89

The COMMUNITY & REGIONAL AFFAIRS Committee recommends that:

HOUSE BILL NO. 139 [PAYMENT FOR PURCHASES; SCHOOLS/MUNICIP.'S]
"An Act relating to payments for purchases by school districts and municipalities; and providing for an effective date."

[] be replaced with CS HB 139 C-RA [] the same title
[] a new title

[] have attached amendment(s)

- [] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [] fiscal impact
- [] zero fiscal note ^{2 notes} _{educ. & C-RA}
- [] zero with analysis

APPROVES PREVIOUS:

- [] fiscal note(s) published: _____
- [] zero fiscal notes(s), published: _____

SIGNING DO PASS:

~~Richard J. Jolley~~
Richard J. Jolley

SIGNING OTHER THAN DO PASS:

(Do Not Pass, No Recommendation, Amend)

Eileen Maclean ~~(NO rec)~~
Cheri Davis (needs amending)
[Signature] no rec

Eileen P. Maclean
Chairman's signature

1

[] Deleted

6-0553E,
Bannister
2/15/89

Original sponsor: Labor and Commerce
Committee

— New Language

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 139 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to payments for purchases by school
7 districts and municipalities; and providing for an
8 effective date."

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

10 * Section 1. PURPOSE. The purpose of this bill is to require munic-
11 ipalities and school districts to pay for their purchases of goods and
12 services in a timely manner.

13 * Sec. 2. AS 14.03 is amended by adding a new section to read:

14 Sec. 14.03.087. PAYMENTS FOR PURCHASES. Payments for purchases
15 by a school district are subject to the requirements applicable to
16 state agencies under AS 37.05.285(a) - (d) and 37.05.285(f)(1) - (2).
17 When applying AS 37.05.285(a) - (d) and 37.05.285(f)(1) - (2) to a
18 school district, "state" and "state agency" are read as "school dis-
19 trict", and "state official" is read as "school district official".
20 In this section, "school district" means a borough school district, a
21 city school district, or a regional educational attendance area.

22 * Sec. 3. AS 14.08.101 is amended to read:

23 Sec. 14.08.101. POWERS. A regional school board may

24 (1) sue and be sued;

25 (2) contract with the department, the Bureau of Indian
26 Affairs, or another [ANY OTHER] school district, agency, or regional
27 board for the provision of services, facilities, supplies or utili-
28 ties;

29 (3) determine its own fiscal procedures including but not

1 limited to policies and procedures for the purchase of supplies and
2 equipment; except as provided by AS 14.03.087, the regional school
3 boards are exempt from AS 37.05 (Fiscal Procedures Act) and AS 36.30
4 (State Procurement Code);

5 (4) appoint, compensate and otherwise control all school
6 employees in accordance with this title; these employees are not
7 subject to AS 39.25 (State Personnel Act);

8 (5) adopt regulations governing organization, policies and
9 procedures for the operation of the schools;

10 (6) establish, maintain, operate, discontinue and combine
11 schools subject to the approval of the commissioner;

12 (7) recommend to the department projects for construction,
13 rehabilitation, and improvement of schools and education-related
14 facilities as specified in AS 14.11.010(a), and plan, design, and
15 construct the project when the responsibility for it is assumed under
16 AS 14.11.020;

17 (8) by resolution adopted by a majority of all the members
18 of the board and provided to the commissioner of the department,
19 assume ownership of all land and buildings used in relation to the
20 schools in the regional educational attendance area;

21 (9) provide housing for rental to teachers, by leasing
22 existing housing from a local agency or individual, or by entering
23 into contractual arrangements with a local agency or individual to
24 lease housing that will be constructed by the local agency or indi-
25 vidual for that purpose;

26 (10) exercise those other functions that may be necessary
27 for the proper performance of its responsibilities.

28 * Sec. 4. AS 29.10.200 is amended by adding a new paragraph to read:

29 (51) AS 29.71.060 (payments for purchases).

[AS 37.05.285(a)-(d) + 37.05.285(f) 1-2]

This reference to The Procurement Code has been removed and the pertinent language has been added into the Municipal Code title 29.

* Sec. 5. AS 29.71 is amended by adding a new section to read:

Sec. 29.71.060. PAYMENTS FOR PURCHASES. (a) Payment for purchases of goods or services provided to a municipality must be made by a required payment date that is

(1) the date on which payment is due under the terms of a contract; or

(2) 30 days after [RECEIPT OF] the goods or services are received and the municipality that is responsible for paying for the purchase receives a proper billing for the amount of the payment due, if a date on which payment is due is not established by contract and if the billing contains or is accompanied by documents required by the contract or purchase order.

(b) If a seller offers a discount from the amount otherwise due for property or services in exchange for payment within a specified period of time, the municipality may make payment in an amount equal to the discounted price only if payment is made within the specified period of time.

(c) If payment for goods or services purchased by the municipality is not made on or before a required payment date under (a) of this section, the municipality shall pay interest on the unpaid balance from the required payment date at the rate of 1.5 percent a month, unless an agreement exists between the seller and the municipality that establishes a lower rate of interest or precludes the charging of interest. If the interest-bearing period of time is either (1) a fraction of a month, or (2) one or more full months plus a fraction of a month, the municipality shall pay the same amount of interest for the fraction of a month as it would pay for a full month.

(d) This section does not apply

(1) if the cost of the goods or services purchased exceeds

1 \$500,000;

2 (2) to payment for specific goods or services in dispute
3 after a seller of goods or services receives notice from the municipal
4 official responsible for authorizing payment for goods and services
5 that the amount of the invoice or quality of specific goods or ser-
6 vices is in dispute and stating the reasons for the dispute; the
7 municipality shall pay for the specific goods or services in dispute
8 within 30 days after the resolution of the dispute;

9 (3) to a contract covered by AS 36.90.010; or

10 (4) to a payment for which reimbursement is available to
11 the municipality under an insurance contract.

12 (e) In this section, payment is considered made on the date when
13 the payment is personally delivered to the seller or agent of the
14 seller or on the date the payment is mailed.

15 (f) In this section, "dispute" means a determination by the
16 municipal official responsible for authorizing the payments for the
17 purchase of goods or services that the performance or price charged is
18 not in compliance with the terms of the contract or purchase order.

19 * Sec. 6. This Act does not apply to purchase contracts entered into
20 before July 1, 1989.

21 * Sec. 7. This Act takes effect July 1, 1989.
22
23
24
25
26
27
28
29

#2

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Payments For Purchases By School Districts and Municipalities
Sponsor: House L & C
Requestor: House C & RA

Agency Affected: Education
BRU: K-12 Support
Components: Foundation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Mary Hakala Phone: 465-2800
Division: Commissioner's Office Date: 2/13/89
Approved by Commissioner: William G. Demmert Date: 2/13/89
Agency: Education

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act..payments for purchases by school districts & municipalities.."
Sponsor: Labor & Commerce Committee
Requestor: _____

Agency Affected: Community & Regional Affairs
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS : (Attach separate page if necessary)

Prepared by: Jim Plasman, Deputy Director
Division: Municipal & Regional Assistance

Phone: 465-4750
Date: 2-15-89

Approved by Commissioner: [Signature]
Agency: Community & Regional Affairs

Date: _____

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

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

POSITION PAPER

RE: House Bill 139

SPONSOR: Labor and Commerce Committee

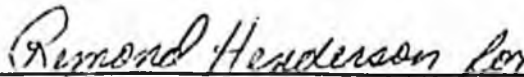
Program Effects of Bill

This bill would require school districts and municipalities to pay for purchases of goods and services promptly. In the event the school district or municipality failed to make the required payment on either the date due in contract or within 30 days after the goods or services are received, the school district or municipality would be required to pay interest on the unpaid balance at the rate of 1.5 percent a month, unless otherwise provided in contract.

Comments

The requirements set by this bill are an intrusion upon local governmental autonomy and deal with contractual affairs more appropriately left to the parties involved. The requirements imposed on municipalities and school districts under this bill are virtually the same as those set for the state in AS 37.05.275. However, imposition of these requirements on local entities differs significantly from the decision to adopt this requirement for state purchases. In the case of state purchases, the state is a party to the contract and is also the party choosing the applicable standard to itself. In the case of local purchases, the state, which is not a party to the contract, is dictating the requirements to one of the parties of the contract.

The structure of local government in the state is guided by the principle of maximum local self government. This principle is founded upon the recognition of the flexibility needed to adapt to the varied local conditions across the state. Imposition of a single, inflexible standard such as that proposed by this bill on all local governments across the state violates this constitutional principle and fails to take into consideration the reality of circumstances in the state upon which the principle is based.



David G. Hoffman, Commissioner

4

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892

February 6, 1989

M E M O R A N D U M

To: Representative Eileen Maclean, Chair
House Community and Regional Affairs Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: Request for hearing - HB 139

I am writing to ask that you schedule HB 139, relating to payments for purchases by school districts and municipalities, for a hearing before the House Community and Regional Affairs Committee at your earliest convenience.

HB 139 is modeled after recently adopted legislation mandating the state to pay their bills on time. The measure requires school districts and municipalities to pay for purchase within 30 days of receipt and subjects them to a 1.5 percent fine and penalties under AS 37.05.285. for failure to pay within the time period outlined in the bill.

The measure was introduced by the House Labor and Commerce Committee on request by the National Federation of Independent Businesses. The Department of Commerce and Economic Development supported a similar measure, HB 422, filed during the 1988 session.

Since adoption of the law governing state purchases, the Department of Administration has reported significant savings to the general fund because they have not had to pay late charges and other related costs (see attached article). Hopefully, HB 139 will bring similar benefits to school districts and local government.

Please contact me or Ginger Baim at 4954 if you have any questions or need additional information.

ANCHORAGE DAILY NEWS SAT, MAY 21, 1988

State agencies save funds by paying the bills on time

By LARRY PERSILY
The Associated Press

JUNEAU — The state will save almost \$24,000 this year doing something most people try, but don't always succeed at.

State agencies will save the money by paying their bills on time and avoiding monthly finance charges.

Tired of complaints that the state was slow in paying its bills, the 1986 Alaska Legislature passed a law requiring payment within 30 days. Agencies would have to pay 1 1/2 percent a month in finance charges after the deadline.

The law went into effect Oct. 1, 1986, and in the next nine months of the fiscal year the state paid \$31,930 in finance charges on about \$2.2 million in late payments.

In the first nine months of this fiscal year, the state paid \$7,391 in finance charges on about \$493,000 in late payments.

If that rate holds through the end of the fiscal year June 30, the state will have paid

about \$9,300 in interest — a \$23,600 savings from the first year the law was in place.

Looking at the number of bills paid by the state, some people may wonder how so many of them get paid on time.

In the first nine months of the current fiscal year, state agencies issued more than 373,000 checks, with almost half a million expected by June 30. That's down about 3 percent from last year. However, just as state spending is down.

Those 500,000 checks will total about \$1.3 billion for goods and services.

"We always have our problems," said Lauri Sewill, of the Department of Administration's finance division. There always are some bills that get held up for any number of reasons, she said.

But agency payment procedures have been getting better, and the division plans to improve the process even more.

FILM:

Continued

(states that) money," Luke

Alaska she up for the rel of doing busi by lining up discounts fo waiving com at parks ar facilities, and for local hire.

Asked if would produ worthwhile, restaurant a that's likas er. If enough mon counts on s uses discoun ments, it will be she state market

The state hard to be various paymen said.

can reflect ti text there said.

"We need

7

Article 3. State Purchasing.

Section

285. Payment for state purchases

Sec. 37.05.220. Purchasing agent. [Repealed, § 67 ch 106 SLA 1986. For current provisions see AS 36.30.]

Sec. 37.05.225. [Renumbered as AS 36.30.180.]

Secs. 37.05.230 — 37.05.280. Competitive bids; contracts; leases. [Repealed, § 67 ch 106 SLA 1986. For current provisions, see AS 36.30.]

Sec. 37.05.285. Payment for state purchases. (a) Payment for purchases of goods or services provided a state agency must be made by a required payment date that is

(1) the date on which payment is due under the terms of a contract; or

(2) 30 days after receipt of a proper billing for the amount of the payment due, if a date on which payment is due is not established by contract and if the billing contains or is accompanied by documents required by the contract or purchase order.

(b) If a seller offers a discount from the amount otherwise due for property or services in exchange for payment within a specified period of time, the state agency may make payment in an amount equal to the discounted price only if payment is made within the specified period of time.

(c) If payment for goods or services purchased by the state is not made on or before a required payment date under (a) of this section, the state shall pay interest on the unpaid balance from the required payment date at the rate of 1.5 percent a month, unless an agreement exists between the seller and the state that establishes a lower rate of interest or precludes the charging of interest. If the interest-bearing period of time is either (1) a fraction of a month or (2) one or more full months plus a fraction of a month, the state agency shall pay the same amount of interest for the fraction of a month as it would pay for a full month.

(d) This section does not apply

(1) if the cost of the goods or services purchased exceeds \$500,000;

(2) to payment for specific goods or services in dispute after a seller of goods or services receives notice from the state official responsible for authorizing payment for goods and services that the amount of the invoice or quality of specific goods or services is in dispute and stating the reasons for the dispute; the state agency shall pay for the specific goods or services in dispute within 30 days after resolution of the dispute; or

(3) to a co
(e) Interes
budget of th
(f) In this
(1) "disput
ble for autho
that the perf
terms of the
(2) paymer
personally de
the payment
(3) "state
includes the

Revisor's no
37.05.275. Renu
Editor's note

Section
287. Insurance
289. State insaur
account

Sec. 37.05.
of Administr:
form that th
property, and
operation of s
ance coverage
(b) The De
state insuran
quate insura
reasonably fo
be due under
The departm
assessment of tl
each calendar
cers of each l
program, an
of the state i
1987)

§ 37.05.285

106 SLA

acts; leases.
ns, see AS

ayment for
st be made

a contract;

ount of the
blished by
documents

ise due for
fied period
nt equal to
e specified

tate is not
is section,
e required
agreement
wer rate of
st-bearing
r more full
y the same
y for a full

\$500,000;
er a seller
esponsible
unt of the
nd stating
he specific
ion of the

§ 37.05.287

PUBLIC FINANCE

§ 37.05.287

(3) to a contract covered by AS 36.90.010.

(e) Interest paid under (c) of this section shall be charged to the budget of the state agency that purchased the goods or services.

(f) In this section

(1) "dispute" means a determination by the state official responsible for authorizing the payments for the purchase of goods or services that the performance or price charged is not in compliance with the terms of the contract or purchase order;

(2) payment is considered made on the date when the payment is personally delivered to the seller or agent of the seller or on the date the payment is mailed;

(3) "state agency" has the meaning given in AS 37.05.990 and also includes the legislative and judicial branches. (§ 1 ch 2 SLA 1986)

Revisor's notes. — Enacted as AS 1986 provides that this section "does not apply to contracts entered into before October 1, 1986."

Editor's notes. — Section 2, ch. 2, SLA

Article 4. Risk Management.

Section

287. Insurance for state assets

289. State insurance catastrophe reserve account

Sec. 37.05.287. Insurance for state assets. (a) The Department of Administration shall obtain or provide, in an amount and in the form that the department determines to be appropriate, casualty, property and other insurance for protection of state assets and for the operation of state government. The department may provide for insurance coverage, in whole or in part, through a self-insurance program.

(b) The Department of Administration shall annually review the state insurance program to ensure that, to the extent reasonable, adequate insurance coverage of reserves are maintained to satisfy all reasonably foreseeable claims or judgments for which payment may be due under the state insurance program during the next fiscal year. The department shall annually obtain an independent actuarial assessment of the state insurance program. No later than February 1 of each calendar year, the department shall submit to the presiding officers of each house of the legislature a review of the state insurance program, an independent actuarial assessment, and a certified audit of the state insurance catastrophe reserve account. (§ 1 ch 28 SLA 1987)



Matanuska-Susitna Borough

P.O. BOX 1608, PALMER, ALASKA 99846-1608 • PHONE 745-4801

DEPARTMENT OF FINANCE

February 16, 1989

Representative Eileen Maclean
Chairman, HCRA
Alaska House of Representatives
P. O. Box V
Juneau, Alaska 99811

Dear Representative Maclean:

I have had an opportunity to review HB139. I foresee little or no impact in applying the State Procurement Code to Borough and School District activities. I believe that the Borough currently complies, voluntarily, with the requirements of AS 37.05.285. This issue, as presented in this bill, relates to the authority of local governments to manage their own affairs. It is not, in my view, sound public policy to have one governmental entity dictating the way another does business.

There are three issues which must be given some consideration:

1. Department of Labor - will disputes between the State Department of Labor and the contractor be considered disputes under AS 37.05.285(d)(2)? Often municipalities must withhold payment to contractors until a labor/wage issue is resolved. It is not reasonable to expect a municipality to pay interest when the monies are withheld because of levy under Title 23 of the Alaska Statutes.
2. Proper billing - this term, as used in AS 37.05.285(a)(2) must be defined. What constitutes a "proper billing"? How long does a municipality have to review records/work to determine a proper billing?
3. Interest rate - 1.5% per month (AS 37.05.285(c)) results in an 18% APR. This amount seems excessive in light of AS 45.45.010.

Please call me if I can be of further assistance.

Sincerely,

Robert R. Jansen
Finance Director

nm

cc: Representative Ronald Larson
Representative Curt Menard
Scott Burgess, Alaska Municipal League

**KENAI PENINSULA BOROUGH**

144 N. BINKLEY • SOLDOTNA, ALASKA 99669
PHONE (907) 262-4441

DON GILMAN
MAYOR

MEMORANDUM

TO: Crystal Smith, Alaska Municipal League

FROM: *DM* Dolly Farnsworth, Mayor, City of Soldotna
Chair Taxation Finance Subcommittee

FROM: *TRB* Thomas R. Boedeker, Kenai Peninsula Borough Attorney
Member Taxation & Finance Subcommittee

DATE: February 16, 1989

SUBJECT: Position or Testimony Regarding House Bill 139.

1. The rate for any late payments should not be at the one and one-half percent per month with a fraction of a month counting as an entire month. AS 36.09.010 dealing with construction contracts charges retainage interest at 10.5% per annum. That is a more appropriate rate for any delinquent payment. AS 36.09.010 does not use the fractional months which can be a problem and serious penalty.

2. The penalty aspect arises in that the bill does not address differences between the operation of State government and local government. State government separates the legislative body from the administrative role and at the State level all decisions are made by departments on approving payment of bills. However, local government often has the local council or service area board approving payment of bills. Until this approval occurs the bill cannot be paid. Often these bodies only meet twice a month or once a month and have publishing deadlines for their agendas which would preclude an item from being included on the agenda and would require consideration at the next meeting. These procedures and requirements are generally known to contractors who do business with those entities. However, House Bill 139 does not give recognition to this difference between State and local government.

An example would be where a fire service area board had to approve the purchase and the billing comes in a week after that board's monthly meeting. The board would not meet for another 23 or so days after the billing is received and the approved payment of that billing is then forwarded to the accounts payable department for the municipality which in some cases may take several days for mail. Because of personnel limitations municipalities often have a fixed schedule for payment of accounts receivable of every other week.

Testimony on House Bill 139
February 16, 1989
Page 2

put payment beyond the 30 days and thus invoke the interest provisions of the statute. Even if the payment were one day late the interest would apply back to the original billing date for the first month that is otherwise a grace period. Payment on the 31st day results in a charge of 3%. Given the context of the process for approval of bills in local government, that would seem inappropriate.

3. We believe that the interest should not apply for the first month even if late. Typically, business provides payment within 30 days and the interest or service charges apply only for time subsequent to the original due date. House Bill 139 would make it retroactive to the original billing date which is not consistent with private business practice and is in the form of a penalty.

4. Municipalities often have ordinances governing purchases. School districts may have other purchasing policies. These have to be adopted in a written form and the public has an opportunity to participate. This bill gives no latitude for different procedures established by local bodies. The bill should not apply where such an ordinance or policy of the school district has been adopted. Persons entering into purchase agreements in light of locally established rules would know the rules of the game and are voluntarily entering into a relationship based on those ordinances or policies. There is no reason that those policies should not be given effect where they have been adopted.

5. The bill provides that the interest starts if payment is not made within 30 days of the billing. The bill does not define what is a "proper billing." House Bill 139 would apply even if the billing was received before the goods. Arguably one could say that would be a disputed billing, but why require a local government to notify a vendor of a "ostensible dispute" when it simply it is a matter of whether the goods have been delivered and accepted. It is true that the municipalities could enter into specific contracts which set other terms regarding acceptance test periods and establishing due dates other than just 30 days from the billing. However, this would be a very cumbersome requirement and does not make any sense to force local governments to enter into such arrangements to protect themselves against arbitrary interest charges that could be triggered by House Bill 139, if adopted. Clearly, provisions should be made that a proper billing is only one that is submitted after acceptance of the goods or services.

6. Although we believe that municipalities and school districts should be responsible and pay their bills promptly, we believe that the options for making prompt payment or arrangements for contracting are really the province of the local

Testimony on House Bill 139**February 16, 1989****Page 3**

government in establishing its relationship to the community and its vendors. We can see some requirement that municipalities adopt provisions for prompt payment, however, a mandate of this type which imposes obligations on the municipalities without consideration of local choice and option is inappropriate. One reason for the establishment of local governments is to allow the flexibility needed for local conditions and circumstances. A statewide mandate of a particular policy and a cost imposed for noncompliance with a rather inflexible program is not good public policy and such a mandate should not be placed upon local governments. Insertion of provisions in the bill to allow for local options and have a general statutory requirement as a default in the absence of some local provision would be a more appropriate method.

TRB:b1

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.