

HB

139

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 17, 1989

FURTHER REFERRALS:

Date of Committee Action: 3/29/89

The FINANCE Committee considered:

HB 139

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."

RECOMMENDATIONS:

be replaced with CSHB 139 (Fin.) 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):
 (Dept)

APPROVES PREVIOUS:
 (Date/Dept)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

zero with analysis _____

(2) zero fn/analysis Educ. & CRA

SIGNING DO PASS:

SIGNING:
 (Check approp. column)

Dick Strutz SHULTZ
Ronald L. Larson LARSON
Bernice Barnes BARNES
Roll E. Phillips PHILLIPS
Steve Rieger RIEGER

| | Do Not Pass | No Rec | Amend |
|-----------------------------|-------------|--------|-------|
| <u>Frank Hoff</u> HOFFMAN | X | | |
| <u>Ed Swack</u> SWACK | | X | |
| <u>Jim Brown</u> BROWN | | X | |
| <u>John Koronen</u> KORONEN | | X | |
| <u>Karl Wallis</u> WALLIS | | | |
| <u>John Wilmer</u> | | | * |

Frank Hoff
 Chairman's signature
 Ronald L. Larson

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 a 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)

Adopted

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 139 (C&RA)
PUBLISH DATE: HOUSE 2/7/89

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)

Adopted

Original sponsor: Labor and Commerce
Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 139 (Finance)

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. (a) Payment for pur-
15 chases of goods or services provided to a school district must be made
16 by a required payment date that is

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

19 (2) 30 days after the goods or services are received and
20 the school district that is responsible for paying for the purchase
21 receives a proper billing for the amount of the payment due, if a date
22 on which payment is due is not established by contract and if the
23 billing contains or is accompanied by documents required by the con-
24 tract or purchase order.

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

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

12 (d) Except as provided in (f) of this section, this section does
13 not apply

14 (1) if the cost of the goods or services purchased exceeds
15 \$500,000;

16 (2) to payment for specific goods or services in dispute
17 after a seller of goods or services receives notice from the school
18 district official responsible for authorizing payment for goods and
19 services that the amount of the invoice or quality of specific goods
20 or services is in dispute and stating the reasons for the dispute; the
21 school district shall pay for the specific goods or services in dis-
22 pute within 30 days after the resolution of the dispute;

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

24 (4) to a payment for which reimbursement is available to
25 the school district under an insurance contract.

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

29 (f) If a dispute under (d)(2) of this section is resolved in

1 favor of the seller, (c) of this section applies to the payment for
2 the goods or services involved in the dispute.

3 (g) In this section,

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

8 (2) "school district" means a borough or city school dis-
9 trict and a regional educational attendance area.

10 * Sec. 3. AS 29.10.200 is amended by adding a new paragraph to read:

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

12 * Sec. 4. AS 29.71 is amended by adding a new section to read:

13 Sec. 29.71.060. PAYMENTS FOR PURCHASES. (a) Payment for pur-
14 chases of goods or services provided to a municipality must be made by
15 a required payment date that is

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

18 (2) 30 days after the goods or services are received and
19 the municipality that is responsible for paying for the purchase
20 receives a proper billing for the amount of the payment due, if a date
21 on which payment is due is not established by contract and if the
22 billing contains or is accompanied by documents required by the con-
23 tract or purchase order.

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

29 (c) If payment for goods or services purchased by the

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

10 (d) Except as provided in (f) of this section, this section does
11 not apply

12 (1) if the municipality has adopted by ordinance substan-
13 tially similar procedures governing the payment of its purchases;

14 (2) if the cost of the goods or services purchased exceeds
15 \$500,000;

16 (3) to payment for specific goods or services in dispute
17 after a seller of goods or services receives notice from the municipal
18 official responsible for authorizing payment for goods and services
19 that the amount of the invoice or quality of specific goods or ser-
20 vices is in dispute and stating the reasons for the dispute; the
21 municipality shall pay for the specific goods or services in dispute
22 within 30 days after the resolution of the dispute;

23 (4) to a contract covered by AS 36.90.010; or

24 (5) to a payment for which reimbursement is available to
25 the municipality under an insurance contract.

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

29 (f) If a dispute under (d)(3) of this section is resolved in

1 favor of the seller, (c) of this section applies to the payment for
2 the goods or services involved in the dispute.

3 (g) In this section, "dispute" means a determination by the
4 municipal official responsible for authorizing the payments for the
5 purchase of goods or services that the performance or price charged is
6 not in compliance with the terms of the contract or purchase order.

7 * Sec. 5. This Act does not apply to purchase contracts entered into
8 before July 1, 1989.

9 * Sec. 6. This Act takes effect July 1, 1989.

6-0553Jd
Bannister

fails on roll call vote 3/29.

AMENDMENT #1

OFFERED IN THE HOUSE

TO: CSHB 139(Finance)

BY THE FINANCE COMMITTEE

rescinded & adopted as amend.

Page 4, following line 11:

Insert a new paragraph to read:

Substant. Similar

"(1) if the municipality has adopted by ordinance/procedures governing the payment of its purchases;"

Renumber the following paragraphs accordingly.

A M E N D M E N T #2

OFFERED IN THE HOUSE

BY THE FINANCE COMMITTEE

TO: CSHB 139(Finance)

Page 2, lines 4 - 5:

Delete "1.5 percent a month"

Insert "10.5 percent a year"

Page 4, lines 3 - 4:

Delete "1.5 percent a month"

Insert "10.5 percent a year"

A M E N D M E N T #3

OFFERED IN THE HOUSE

BY THE FINANCE COMMITTEE

TO: CS#B 139(Finance)

Page 1, line 7, following "districts":

Delete "and"

Insert ", "

Page 1, line 7, following "municipalities":

Insert ", and state agencies"

Page 2, lines 4 - 5:

Delete "1.5 percent a month"

Insert "10.5 percent a year"

Page 4, lines 3 - 4:

Delete "1.5 percent a month"

Insert "10.5 percent a year"

Page 5, following line 4:

Insert new bill sections to read:

"* Sec. 5. AS 37.05.285(c) is amended to read:

(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 10.5 [1.5] percent a year [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.

* Sec. 6. AS 37.05.285(d) is amended to read:

(d) Except as provided in (g) of this section, this [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 contract covered by AS 36.90.010.

* Sec. 7. AS 37.05.285 is amended by adding a new subsection to read:

(g) If a dispute under (d)(2) of this section is resolved in favor of the seller, (c) of this section applies to the payment for the goods or services involved in the dispute."

Renumber the following bill sections accordingly.

A M E N D M E N T #1

OFFERED IN THE HOUSE

BY THE FINANCE COMMITTEE

TO: CSHB 139(Finance)

Page 1, line 7, following "districts":

Delete "and"

Insert ", "

Page 1, line 7, following "municipalities":

Insert ", and state agencies"

Page 5, following line 4:

Insert new bill sections to read:

"* Sec. 5. AS 37.05.285(d) is amended to read:

(d) Except as provided in (g) of this section, this [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 ser-
vices 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 contract covered by AS 36.90.010.

* Sec. 6. AS 37.05.285 is amended by adding a new subsection to read:

(g) If a dispute under (d)(2) of this section is resolved in favor of the seller, (c) of this section applies to the payment for the goods or services involved in the dispute."

Renumber the following bill sections accordingly.



KENAI PENINSULA BOROUGH

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

DON GILMA
MAYOR

MEMORANDUM

TO: Crystal Smith, Alaska Municipal League

FROM: *DMJ* 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 payment 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



Matanuska-Susitna Borough

P.O. BOX 1606, PALMER, ALASKA 99645-1606 • 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

ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510 • (907) 586-1083

POSITION PAPER

HB 139

Payment for Purchases

The Association of Alaska School Boards encourages **opposition** to HB 139, "An Act relating to payments by school districts and municipalities; and providing for an effective date."

AASB has a number of concerns with the proposed legislation:

HISTORICAL PERSPECTIVE

There are various reasons why districts may not pay promptly, including (1) the procedure whereby a supplier/servicer may invoice the district before the district has actually received the merchandise, or (2) the district may be invoiced upon receiving only one-half of the order.

Another prevalent practice is that school districts may order supplies in the summer months and receive the merchandise soon thereafter, with the *agreement* that the bill will be paid in August/September when school starts.

Alternatives used by some districts include doing business with *larger suppliers* using an expanded credit line, or they may *delay the delivery* of supplies to August. These practices may, in some instances, preclude the use of local commerce.

ASSUMPTION

To entertain this bill is to suggest that Alaska's school districts are "poor pay" clients or that they don't pay their bills. This is simply not true. AASB is not aware of any problem in this regard. School districts pay their bills on time.

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892



March 28, 1989

M E M O R A N D U M

To: Members, House Finance Committee

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

Re: CS for HB 139 (HESS)

The House Labor and Commerce Committee introduced HB 139 at the request of the NFIB and other small Alaska businesses to assure prompt payment for the delivery of goods and services to municipalities and school districts.

The original version of HB 139 extended AS 37.05, a law requiring the state to pay for goods and services within 30 days of delivery, subject to a monthly interest penalty of 1.5 percent, to apply to municipalities and school districts.

The Community and Regional Affairs Committee CS recreates state procurement law as it pertains to "pay on time" provisions under Title 29 (Municipal Code) with two changes: exempts municipalities from "pay on time" requirements for reimbursable insurance payments and provides that the waiting period (30 days) does not begin until proper billings are received by the municipality actually responsible for payment.

The House HESS CS does the same thing for school districts that the C&RA CS does for municipalities. It recreates state procurement law language under Title 14 to apply directly to school districts with the same changes inserted for municipalities in the C&RA CS.

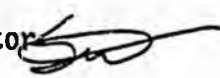
HB 139 is an important measure for Alaska's small business community. The state has experienced no difficulties in complying with the "pay on time" provisions adopted three years ago and, in fact, have saved money by avoiding various late charges and penalties. HB 139 should do the same for municipalities and school districts and it will help Alaska's small businesses in the process by assuring timely payment for the services they provide local government.

Alaska
MUNICIPAL
League

TELEPHONE
(907) 586-1325
FAX 463-5480

217 SECOND STREET, SUITE 200
JUNEAU, ALASKA 99801

TO: Representative Johnny Ellis, Chair
Members of the House Health, Education
and Social Services Committee

FROM: Scott A. Burgess, Executive Director 

DATE: March 15, 1989

SUBJECT: CSHB 139 (C&RA) - Payments for purchases by school districts and municipalities

The AML is opposed to CSHB 139 (C&RA) as an unnecessary and inappropriate intrusion by the State into local affairs. In opposing the legislation the AML is not opposing timely payment of valid bills for purchases of goods and services. Municipalities handle their business affairs in a manner that is distinctly different than that of the State. The State mandating purchasing and payment procedures adopted by the State on municipalities not recognize the differences between the two levels of government and among the various local entities.

Municipalities and school districts range in size, access, staffing, hours of operation, and procurement sophistication; therefore, a blanket requirement of 18% annual interest on bills due over thirty days does not recognize these differences, as well as how the entities purchase, receive and pay for goods and services. Some municipalities and school districts do not operate even five days a week, 12 months of the year. Other municipalities and school districts have very sophisticated procurement policies or ordinances.

On the specifics of the bill, an interest rate of 18 percent a year seems excessive, especially on a 1.5 percent per month or fraction of the month basis. The rate of interest in the state is 10.5 percent a year under AS 45.45.010(a). This is the rate of interest required of municipalities by the State (unfortunately) for funds retained on public construction projects by reference under AS 36.90.010.

Again, AML does not support CSHB 139; however, if the Committee decides CSHB 139 is an appropriate mandate on local government, AML would request, at a minimum, amending the bill as follows:

On page 3, amend Section 5, Sec.29.71.060 as follows:

(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

AML Testimony on CSHB 139
March 15, 1989
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payment date at the rate of 10.5 [1.5] percent a year [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 municipality has adopted by ordinance a procedure addressing payments for purchases;

(2 [1]) if the cost of the goods or services purchased exceeds \$500,000;...

Thank you for your consideration.