

HB

139

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.

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892



January 23, 1989

M E M O R A N D U M

To: Members, House Labor and Commerce Committee

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

Re: Proposed Committee Legislation - "Pay on Time"

The attached bill draft would require Municipalities and School Districts to pay for the purchases they make within 30 days or pay interest on the outstanding balance due to the contractor.

Recently this legislative body passed a similar piece of legislation that requires the State of Alaska to pay it's constructors on time or pay the contractor interest on the outstanding balance after 30 days. Alaska's small businesses have asked that we place the same requirements on local governments and school districts.

Considering the current state of our economy, it is critical that we keep the money that is owed to small businesses on the "street" rather than in the accounts of local governments. It is not the job of small business to finance local government through the money they are owed for work performed.

Its clear and simple, if the money is owed to small business, local governments should pay it, just as small businesses are expected to pay their bills on time and complete the work they contracted for in a timely manner.

Sec. 37.05.270. Purchases through General Services Administration. [Repealed, § 67 ch 106 SLA 1986, effective January 1, 1988.]

Sec. 37.05.280. Leases. [Repealed, § 67 ch 106 SLA 1986, effective January 1, 1988.]

Article 3A. Payment for Purchases.

Section

285. Payment for state purchases

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 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 37.05.400 and also includes the legislative and judicial branches. (§ 1 ch 2 SLA 1986)

Legislator's notes. — Enacted as AS 37.05.275. Renumbered in 1986.

Effective dates. — Section 3, ch. 2, SLA 1986, provides: "This Act takes effect October 1, 1986."

Editor's notes. — Section 2, ch. 2, SLA 1986 provides that this section "does not apply to contracts entered into before October 1, 1986."

Article 3B. Risk management.

Section

287. Insurance for state assets

Section

289. State insurance catastrophe reserve account

Effective dates. — Section 2, ch. 28, May 31, 1987, in accordance with AS SLA 1987, makes this article effective, 01.10.070(c).

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 assure 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)

COALITION FOR PROMPT PAY

October 12, 1989

TO: STATE LEGISLATORS WHO SUPPORT PROMPT PAY

FROM: Theresa Stanion, Legislative Assistant
International Communications Industries Association (ICIA)

Getting U.S. to Pay Firms on Time Was Fight of Decade
&
New Prompt Pay Law Relieves Credit Headaches

Because of your interest and support of prompt pay legislation, we would like to share with you two recent news articles featuring the Coalition for Prompt Pay.

The first of these, "Getting U.S. to Pay Firms on Time Was Fight of Decade," appeared in the Wall Street Journal on September 5, 1989. It details the long fight of the coalition and Kenton Pattie in getting the Federal Prompt Pay bills through Congress.

The second article, "New Prompt Pay Law Relieves Credit Headaches," was written by Kenton and was published in the September, 1989 issue of Business Credit. It is a quick overview of the Federal Law and also gives some down-to-earth advice to credit managers who do business with the Federal government. Business Credit is published by the National Association of Credit Management, a coalition member.

We thought you'd like to read the articles and perhaps share them with other legislators who are also interested in prompt pay.

THANKS FOR YOUR SUPPORT

The Coalition for Prompt Pay is thankful for the support of legislators like yourself in getting state prompt pay laws passed in forty-seven states plus the District of Columbia.

If there is any way that we can help you, please give us a call at 703/273-7200.

COALITION FOR PROMPT PAY

MEMBERS OF THE COALITION FOR PROMPT PAY

International Communications Industries Association (ICIA)
Air Conditioning Contractors of America (ACCA)
American Association of Nurserymen (AAN)
American Fire Sprinkler Association, Inc. (AFSA)
American Consulting Engineers Council (ACEC)
American Institute of Steel Construction (AISC)
American Logistics Association (ALA)
American Subcontractors Association (ASA)
American Traffic Safety Services Association (ATSSA)
Associated Builders and Contractors (ABC)
Associated Specialty Contractors (ASC)
Association for Information and Image Management (AIIM)
Association of Data Processing Service Organizations (ADAPSO)
Association of the Wall & Ceiling Industries—International (AWCI)
Ceilings & Interior Systems Construction Association (CISCA)
Coalition for Government Procurement
Mechanical Contractors Association of America (MCAA)
National Association of Manufacturers (NAM)
National Association of Medical Equipment Suppliers (NAMES)
National Association of Minority Contractors (NAMC)
National Association of Retail Druggists (NARD)
National Association of Wholesalers-Distributors (NAW)
National Association of Credit Management (NACM)
National Electrical Contractors Association (NECA)
National Independent Dairy Foods Association (NIDFA)
National Moving and Storage Association (NMSA)
National Roofing Contractors Association (NRCA)
National Small Business United (NSBU)
National Tooling and Machinery Association (NIMA)
Painting and Decorating Contractors of America (PDCA)
Professional Services Council (PSC)
Sheet Metal & Air Conditioning Contractors National Association (SMACNA)
Small Business Legislative Council (SBLC)

New Prompt Pay Law Relieves Credit Headaches

You Won't Become Methuselah Waiting for Uncle Sam

By Kenton H. Pattie

THE U.S. AIR FORCE PURCHASED \$8,833 WORTH OF PLAYGROUND EQUIPMENT and had the Alabama manufacturer ship it to a base in Alaska. The manufacturer received payment 673 days later. Although federal law requires payment of interest penalties in such cases, the manufacturer received only \$91.59 in penalties—at least \$648 less than the amount the law allows.

This is not an isolated case of late pay, as thousands of small and large firms are experiencing the same problem.

A Virginia company, for example, sold \$1,424 worth of office products to the Defense Department. Payment was received 583 days later without a cent in interest penalties. Dozens of companies make similar sales every day, only to discover that the federal government is notorious for late payments.

**"What company
can afford to carry
its customers for 19
to 24 months?"**

This is not a case where credit managers are asleep on the job. The Alabama firm's credit manager made repeated attempts to secure payment. The government ignored her billings. After she appealed to Senator Howard Heflin (D-Alabama), who talked with the Air Force for two months, they finally responded.

The credit manager for the Virginia office products firm worked just as hard, phoning the buyer and the buyer's finance office repeatedly. The finance office claimed it had never received "proof of delivery" which the company had sent many times. The government's receiving report was dated "October," even though the goods were delivered five months earlier. Even the long delay in issuing a receiving report did little to speed up payment which was eventually received 19 months late.

What company can afford to carry its customers for 19 to 24 months? What company can afford to spend valuable credit office time on collection campaigns which chase the U.S. government from coast to coast?

New Law Expedites Government Payment

Credit managers facing these problems are getting good news this year, with the adoption of the new prompt payment law. Congress has come to your aid, and beginning this fall, you should see faster payments from federal accounts.

This article will help you use the new law and the rights it ensures, and will help you train others in your office.

You have the right to notification within seven

days if your shipment, service, or invoice is unsatisfactory. Under the old law, the government was required to notify you within 15 days, but few problem invoices ever triggered notification. Problem invoices, which languished for months, were used as an excuse for nonpayment.

Under the new law, if the government fails to contact you within seven days, the payment cycle begins, and, if the product or service is normal, you will be paid by the 38th day (seven days for acceptance and 30 days to issue payment).

You have the right to know when the payment will be made, even if the government takes longer than seven days to inspect your shipment or work. The new payment act creates a seven day "constructive acceptance" period. For example, the government may accept your work 20 days after you deliver it, but the 30 day payment clock begins on the seventh day after delivery or after receipt of the invoice, whichever is later.

You have the right to an early payment in return for an early payment discount. Many federal buyers took early payment discounts long after the discount period expired. Under the new law, they may only take such discounts if they meet the deadline set by the company. The determining date will be the date on your invoice.

If you say "2 percent discount for payment in 15 days," for example, the count of the 15 days begins on the day you date your invoice. Therefore, it is very important to make sure the invoice arrives the same day as the goods arrive or the service is finished.

You have the right to know for what you are

being paid. After the 1982 act, many credit managers complained that they received U.S. Treasury checks with no accompanying account information. Consequently, credit managers would have to call the government to find out which goods or services were being paid.

The new law states that when you receive treasury checks, you should receive information concerning what they are for and, if interest is paid, the basis for the interest.

In the event that you are paid by electronic funds transfer, you also have this right. Unfortunately, the treasury's new Vendor Express EFT system may not give you all the information you need. For example, what if the payment is for several dozen invoices? There is certainly not enough room to include all contract and purchase order numbers.

For this reason, I'm certain that we will need to continue working with the government to solve the emerging information gap that comes with the age of electronic funds transfer.

You also have a right to an extra penalty if the government fails to pay you the interest it owes. After the 1982 act, many agencies began paying interest penalties for the first time. In that respect, the 1982 act was a major breakthrough for credit managers. But in recent years, some payment centers decided they would not pay penalties even though they were required to do so by law.

Insisting on making the interest penalty an automatic responsibility of every government finance center, Congress called for an extra penalty to be paid by any agency which deliberately refuses to pay you interest. Under the new rules, agencies will pay either a 50 or a 100 percent penalty on top of the normal penalty every time they pay for the goods but fail to pay interest owed. The one snag, however, built into the new act, is that you must write a letter asking for the extra penalty.

After receiving a late payment without a penalty payment attached, you must write within 40 days, stating, "I received no interest penalties, and therefore we are due an extra penalty as per the Prompt Payment Act of 1988."

Some Headaches Remain

Congress felt it was unable to solve all the problems credit managers are having, including "lost" invoices.

Every day, federal agencies "lose" thousands of invoices mailed by companies. Some are sent by "return receipt requested" or by a private messenger service. To credit managers' astonishment, none of these show up later—they just disappear. Many companies resubmit invoices five or six times before one is actually "received."

One government finance employee recently told me that he just had to throw many incoming invoices away, "I just don't have the time. There are too many of them, too many problems that I have to just get solved. It's easier to toss them than to handle them." Back in 1982, when the first law was going through, an anonymous government employee called to tell me that his office regularly shredded its backlog of invoices rather than pay them.

Dealing with "Lost" Invoices

Credit managers should never issue a new invoice with a new date, this just allows the recipient to further delay payment. If you must resubmit, use the original invoice number and date. Acquire a receiver's signature.

If you know the name of the person you are sending the invoice to, phone them the day you believe it arrived and verify its receipt. If you have a number of "lost" invoice problems, call the inspector general (IG) of that agency. Every base, federal building, and agency has an IG who investigates fraud, waste, and abuse.

Throwing away invoices is clearly fraud and abuse of government authority. An IG can help stop a pattern of lost invoices. If you can't reach your local IG, you can call (202) 343-5745, (202) 535-7335, or (800) 424-5210 (recording).

Bridging the Communication Gap

Another common problem is solving the lack of government-vendor communication. Too often, phone calls result in reaching a tape recording that says, "We're busy now. Leave your number and your contract number and we'll get back in touch with you." Rarely does anyone ever contact you. When you do reach someone, they usually can't help resolve your problem.

Under those circumstances, you must keep a detailed diary of all your contacts and a log of exactly what is said or not said. Then write a letter to the agency indicating what you have done and explain that no one ever replied to your inquiry.

Since you will probably be in a more formal dispute later, it is best to keep these detailed notes from the beginning. Your notes and confirming letters will be proof of your good faith effort and will help document the government's mismanaged payment process.

Luckily, a few agencies publish information on how vendors can receive payment from them; more should. It would also be helpful if more agencies would conduct seminars for credit managers on how to send proper invoices to the government. Some of their payment forms, such as the DD 250, are so complicated that mistakes are all too

"Your notes and confirming letters will be proof of your good faith effort."

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common. The slightest mistake results in a rejected invoice which must be resubmitted.

In addition, some agencies allow credit managers only three problem invoices for each phone call. For those with a backlog of dozens of invoices, this is a frustrating system. I suggest calling right back after the three-call limit is reached. Eventually they will agree to work on a more businesslike basis.

If these suggestions don't help, try meeting with your government counterpart. Many vendors have gone into government offices, sorted through unpaid invoices, pulled out their own, and walked them through the system to speed up payment. Other vendors have met with top agency officials to discuss the general problem of late payment. These meetings are often effective in launching an improved level of communication.

Getting Partially Paid

The prompt pay law permits partial payments unless they are specifically prohibited by the contract. (Many companies complain that the government will delay payment because a portion of a long purchase order is on backorder.)

Each of these partial payments is subject to the penalty provisions of the prompt payment law. Thus, the same 30-day standard for completed jobs applies to partial completions.

The new law even extends the prompt pay rules to contractors and subcontractors who receive progress payments when working on federal construction projects.

I recommend that your sales manager be dis-

Nuts and Bolts of the New Law

President Reagan signed the Prompt Payment Act Amendments Act of 1988 (P.L. 100-496) in October of 1988. The law became effective April 1, 1989. In the spring and summer of 1989, new rules were published called prompt pay amendments to the Federal Acquisition Regulations (FARS) and Office of Management and Budget Circular A-125. To ask questions about A-125, call (202) 395-3066. These rules contain the specific clauses the government employees will follow when dealing with you and other credit managers from private firms.

The interest penalty rate is set by the Treasury Department every January 1 and July 1. To find out the current rate call (202) 566-5651.

For more information, contact NACM or the Coalition for Prompt Pay, 3150 Spring Street, Fairfax, VA, 22301-2399, (703) 273-7200.

couraged from signing contracts which have a prohibition against partial payment for partial delivery. Such prohibitions may cause a long delay in your getting paid and could play havoc with your cash flow.

For example, a company recently signed a contract to deliver "one lot" over nine months for \$100,000. The "one lot" in question was a series of separate reports and studies. By referring to these as "one lot," the government may have cunningly undermined the company's claim to partial payment for each delivered report or study.

A Few Final Hints

As a credit manager, you normally call just the buyer or the payment center of that buyer. But, with federal accounts, you must be willing to call the supervisor. If that doesn't work, call the base commander or other top federal executive for that local unit. If that doesn't work, call the agency's comptroller in Washington. As a last resort, call your state senator or representative.

If you work for a small business, you should call the agency's Small and Disadvantaged Business Utilization Office (SADBU). There is one in every agency. If you can't find the number, call (800) 368-5855. In every case, follow up with a confirming letter, repeating all the steps you have taken in your quest for payment.

Eventually, at wit's end, you may need to file a formal complaint under the Contract Disputes Act with the Board of Contract Appeals. You often do not need a lawyer to do this.

All the letters you have written will stand as evidence. Inevitably, the government will not be as well organized or as well-documented as you are.

If you fear complaining too loudly because you might lose the government's future business, I can assure you that the government is far too disorganized to coordinate a sales barrier against your company.

I hope you find the new law works for you, helps your cash flow, and makes doing business with the federal government easier. When you run into problems, summarize them and share them with NACM and the Coalition for Prompt Pay. We plan to keep on top of this problem until you are satisfied.

Kenton H. Patte is executive vice president of the International Communications Industries Association (ICIA) and is founder and director of the Coalition for Prompt Pay. He led the lobbying campaign which resulted in the 1982 and 1988 prompt pay laws and in the adoption of prompt pay laws in 47 states.

ENTERPRISE

Getting U.S. to Pay Firms on Time Was Fight of Decade

Campaign Goes On to Keep Honest a Notorious Deadbeat: the Government

By EUGENE CARLSON

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—Why can't the government follow commercial practice and pay its bills on time? To Kenton Pattie, vice president of a Washington-based small-business trade group, it seemed like a logical question in 1978.

The answer wasn't so simple. For a decade, Mr. Pattie has been the field marshal in a complex, frequently lonely legislative campaign to force federal agencies to pay their contractors and vendors in timely fashion. The struggle, largely ignored by the press, ultimately produced the federal Prompt Payment Act. The law's amended rules took effect in April.

Late payments are a nuisance for any business but can be devastating for small companies. Ironically, the government—which besides being the nation's largest buyer of goods and services is always talking about ways to help small business—is a notorious deadbeat. (Small businesses get about 20% of the government's \$200 billion in annual procurement orders.)

President Reagan signed the first prompt-pay law in 1982, requiring agencies to pay interest on money owed 30 days after goods and services are received. Four years later, the General Accounting Office conceded the government was still



Kenton Pattie

paying about one-fourth of its bills late, often two or three months after they were received. So Mr. Pattie spent two more years pursuing amendments to plug the law's loopholes. "People tell me I've made a career out of this," he sighs.

In his long pursuit of speedier bill paying, Mr. Pattie conducted a classic, albeit undermanned, lobbying campaign. He criss-crossed miles of marble hallways on Capitol Hill, sat through countless House and Senate committee hearings, coordinated testimony from outsiders, briefed congressional staff members and helped draft legislation.

In many ways, Mr. Pattie's campaign is a textbook example of how laws are shaped by special interests. But while headline-making issues such as tax reform, clean air and the savings-and-loan bailout attract legions of lobbyists, Mr. Pattie discovered hardly anyone in Congress knew tardy payments to businesses were a problem. Moreover, the executive branch, suspicious of congressional meddling, opposed a legislative fix.

Lonely Voice

"A ferociously mundane issue presents all the same problems and complexities as high-profile legislation," says Chris Brewster, who worked on the prompt-pay bill as an aide to Sen. John Danforth (R., Mo.) and is now an attorney in private practice in Washington. "Kenton truly was a voice crying in the wilderness."

At age 49, soft-spoken and with the clean-cut looks of a young Cary Grant, Mr. Pattie doesn't look the part of a professional arm-twister. "He doesn't appear to be a take-no-prisoners lobbyist, but he's an excellent coalition builder and he's dog-

ged," says William Montalto, a staff counsel for the Senate Small Business Committee. Adds Mr. Brewster: "[Mr. Pattie] is so single-minded on this issue that you'd never want to be caught on an elevator with him."

With permission of his employer, the International Communications Industries Association, Mr. Pattie spent long hours visiting congressional offices. "Ninety-nine percent of the meetings are with staff," he says frequently. "they'll give you five or 10 minutes if you promise not to stay longer."

Letters from constituents, which helped him gain entrance, were supplied by trade groups: the American Fire Sprinkler Association, the American Builders and Contractors, the National Independent Dairy Foods Association, the National Tooling and Machining Association, and 28 other associations with nationwide membership that Mr. Pattie lumped into an umbrella group, the Coalition for Prompt Pay. Each coalition member paid dues of \$350 a year to help underwrite lobbying costs.

Key Action

Mr. Pattie also labored to line up cosponsors for prompt-pay bills introduced in the House and Senate. "Cosponsoring sounds Mickey Mouse . . . but it's the key to getting things going," Mr. Pattie says. "One of my techniques was to issue a press release when they agreed to become a cosponsor—'Congressman Fights Late Bill Payers,' or something like that."

Partisan politics complicated the effort. Republicans took control of the Senate in 1980, then lost their majority six years later. With each shift, Mr. Pattie had to recruit a new senator from the majority

party to lead the Senate fight.

A break came in 1986, during debate over amendments to the Prompt Payment Act, when Rep. Jack Brooks (D., Texas), then chairman of the House Government Operations Committee, produced a General Accounting Office report detailing the government's late-payment record.

At first, the Office of Management and Budget fought change, but its arguments didn't sway Rep. Brooks. "Y'all paying your bills late? Y'all suppose I could pay my bills late?" draws Mr. Pattie, puffing an imaginary cigar and imitating Rep. Brooks's interrogation of officials.

Change of Heart

Ultimately, the administration agreed to support the legislation. "I think they just feared the wrath of Jack Brooks," Mr. Pattie says.

The amendments prevent ploys like pushing back the stated date of arrival of goods and the almost routine invocation of a 15-day "grace period" for special cases, and also extend the application of the law. Despite that, federal agencies are already figuring out new ways to drag out payments by keeping invoices floating in bureaucratic limbo, forcing Mr. Pattie to keep to his dogged pursuit of the issue. He is keeping his coalition alive to monitor compliance, and is working for prompt pay bills in Vermont, New Hampshire and Georgia, having masterminded prompt pay legislation in 35 other states.

The rewards of the lengthy campaign? Mr. Pattie says company presidents have sent him photocopies of interest checks from the government covering late payments. "I've got quite a few of them," he says. "It's pretty neat."

HB 139

COALITION FOR PROMPT PAY

Hon. Dave Donley
Alaska House of
Representatives
4852 Newcastle Way
Anchorage AK 99503

August 10, 1989

Dear Representative Donley:

Enclosed is a complimentary copy of our new prompt pay book, Guide to Getting Paid Promptly by State and Local Agencies.

Because of legislators like yourself, forty-seven states plus the District of Columbia have prompt pay laws.

In addition to the synopsis of the major prompt pay laws in each of the forty-seven states, the book contains an updated version of our model state prompt pay law. As you know, Congress passed a major revision of the Federal prompt pay law in October of 1988, and we have included in our revised state prompt pay law many of the provisions of the Federal law. We encourage you to look at this model law to see how you can strengthen your own state law.

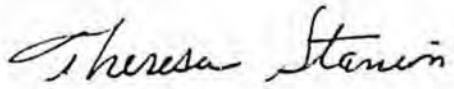
If you know of other state legislators who would like a complimentary copy of our book, send us their names and addresses and I will send them a copy.

I would also encourage you to show the book to your constituents and to business associations. Many businesses have clients in a number of states and this would be an invaluable resource to them. The book contains a summary of the new Federal prompt pay regulations for those businesses who sell to the Federal government.

We have enclosed an order form for additional books which you can give to constituents and associations whose members sell to the government. This will help all of us. It will help you to get better laws passed and publicize what you are doing. It will help small businesses in your state know how to get paid promptly. And it will help the coalition by allowing us to continue to our work of promoting prompt pay by government agencies.

The coalition thanks you for your support.

Sincerely,



Theresa Stanion
Legislative Assistant

Enclosure: Getting Paid Promptly By State and Local Agencies
Order Form

COALITION FOR PROMPT PAY

MEMBERS OF THE COALITION FOR PROMPT PAY

International Communications Industries Association (ICIA)
Air Conditioning Contractors of America (ACCA)
American Association of Nurserymen (AAN)
American Fire Sprinkler Association, Inc. (AFSA)
American Consulting Engineers Council (ACEC)
American Institute of Steel Construction (AISC)
American Logistics Association (ALA)
American Subcontractors Association (ASA)
American Traffic Safety Services Association (ATSSA)
Associated Builders and Contractors (ABC)
Associated Specialty Contractors (ASC)
Association for Information and Image Management (AIIM)
Association of Data Processing Service Organizations (ADAPSO)
Association of the Wall & Ceiling Industries--International (AWCI)
Ceilings & Interior Systems Construction Association (CISCA)
Coalition for Government Procurement
Mechanical Contractors Association of America (MCAA)
National Association of Manufacturers (NAM)
National Association of Medical Equipment Suppliers (NAMES)
National Association of Minority Contractors (NAMC)
National Association of Retail Druggists (NARD)
National Association of Wholesalers-Distributors (NAW)
National Association of Credit Management (NACM)
National Electrical Contractors Association (NECA)
National Independent Dairy Foods Association (NIDFA)
National Moving and Storage Association (NMSA)
National Roofing Contractors Association (NRCA)
National Small Business United (NSBU)
National Tooling and Machining Association (NTMA)
Painting and Decorating Contractors of America (PDCA)
Professional Services Council (PSC)
Sheet Metal & Air Conditioning Contractors National Association (SMACNA)
Small Business Legislative Council (SBLC)

COALITION FOR PROMPT PAY
ORDER FORM

Date: _____
Name _____
Title _____
Company/Organization _____
Address _____
City/State/Zip _____
Phone _____

GUIDE TO GETTING PAID PROMPTLY BY STATE AND LOCAL AGENCIES

PRICE LIST

1 - 5 COPIES _____ \$18.00 EACH
6 - 25 COPIES _____ \$15.00 EACH
26 OR MORE COPIES _____ \$12.00 EACH

PLEASE SEND ME _____ COPIES @ _____ EACH = \$ _____
POSTAGE AND HANDLING = \$ 3.00
TOTAL AMOUNT ENCLOSED = \$ _____

Make your check out to:
COALITION FOR PROMPT PAY

Send your check with this order form to:
COALITION FOR PROMPT PAY
3150 Spring Street
Fairfax, VA 22031-2399

Thank you very much for your support.

1. Take portion of amendment 6-0553Ha (dated 3/27/89, that applies the "dispute" language to the state procurement code (Title 37.05) and draft it to fit in the proposed H.Finance CS. (The "dispute" language has already been adopted into the H.Finance CS as it pertains to school districts and municipalities).

(THE STATE ALREADY HAS A MECHANISM FOR APPEALING A DISPUTE SO THAT A VENDOR MAY GET THE PENALTY/INTEREST WHEN A DISPUTE HAS BEEN SETTLED IN THEIR FAVOR. IT'S NOT A GOOD IDEA TO AMEND THE STATE PROCUREMENT LAW IN THIS MANNER. MUNICIPALITIES AND SCHOOL DISTRICTS DO NOT HAVE SUCH A MECHANISM FOR SETTLING DISPUTES, THEREFORE THE DISPUTE LANGUAGE ALREADY INCLUDED IN THE HOUSE FINANCE CS MAKES SENSE).

2. Draft an amendment that changes the interest penalty provisions under the Finance CS for HB 139 (for school districts and municipalities) from 1.5 percent per month to 10.5 percent per year, as under AS 45.45.010(a) - standard state rate of interest.

(THE 1.5 PERCENT/MONTH INTEREST RATE IS WHAT IS IN CURRENT STATE LAW. IF THE STATE CAN LIVE WITH IT, WHY NOT MUNICIPALITIES AND SCHOOL DISTRICTS? ALSO, THE STANDARD RATE OF INTEREST (10.5 PERCENT/YEAR) IS A STATUTE DESIGNED TO COVER INSTANCES WHERE THE STATE IS WITHHOLDING CERTAIN MONEY DUE TO A VENDOR OR OTHER PERSON AND ASSURES THAT THEY ARE PAID A REASONABLE RATE OF INTEREST WHILE THE MONEY IS BEING HELD. THE PURPOSE OF THE INTEREST/PENALTY IN HB 139 IS A PENALTY TO DETER LATE PAYMENT. SIMPLY REQUIRING A "REASONABLE RATE OF INTEREST" WILL NOT SERVE AS A DETERMENT TO DELAY PAYMENT AND WILL DEFEAT THE PURPOSE OF THE SECTION).

3. Draft an amendment that applies the interest rate change in amendment #2 to the state procurement code, as well as to municipalities and school districts.

(EVEN WORSE THAN THE ARGUMENTS OFFERED IN #2 BECAUSE IT WILL CHANGE EXISTING STATE LAW. ALASKA'S SMALL BUSINESS COMMUNITY ASKED FOR HB 139 TO HELP THEM GET PAID ON TIME. AMENDMENT #3 WILL NOT ONLY GUT HB 139, BUT WILL GUT EXISTING STATE LAW THAT HAS HELPED SMALL BUSINESSES. TALK ABOUT KICKING THEM WHEN THEY ARE DOWN!!).

4. Draft an amendment that says this act does not apply to municipalities if: (1) the municipality has adopted by ordinance a procedure addressing payments for purchases

(THIS WOULD EXEMPT LARGER MUNICIPALITIES THAT ADOPT ANY ORDINANCE PROVIDING FOR ANY RULES FOR PAYMENT FOR GOODS AND SERVICES AND LEAVE SMALLER COMMUNITIES UNDER HB 139. A REASONABLE ALTERNATIVE MAY BE TO EXEMPT MUNI'S IF THEY ADOPT, BY ORDINANCE, A "PAY ON TIME" PROVISION THAT IS SUBSTANTIALLY SIMILAR TO THE REQUIREMENTS UNDER HB 139.

Carol, call me if this is still confusing.

Ginger - 4954

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892



March 29, 1989

PROBLEM

Under HB 139 (and current state procurement law AS 37.05) the penalty provisions for failure to pay on time do not apply when a delivery has been disputed by the reciever of the goods and services, even when the dispute is eventually decided in favor of the vendor.

Amendment #1

Provides that the interest penalty for failure to pay on time applies to municipalities and school districts if the dispute is eventually settled in favor of the vendor.

(The HESS CS places the "pay on time" provisions under Title 29 for municipalites and Title 14 for school districts. It makes no mention or reference to state law under Title 37.05.)

Amendment #2

Provides that the interest penalty for failure to pay on time applies to the state, municipalities and school districts if the dispute is eventually settled in favor of the vendor.

(Since the HESS CS applies only to Title 29 (muni's) and Title 14 (School Districts), its necessary to amend the title of the bill and add additional language to get this amendment to apply to the state as well as the entities under HB 139).

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 adopted a law requiring payment within 30 days. Agencies would have to pay 1½ 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 \$32,930 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 problem child," 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: State luri

Continued from Page B-5

(states that) spend a lot of money," Lukens said.

Alaska should try to make up for the relatively high cost of doing business in the state by lining up hotel and other discounts for film crews, waiving commercial-use fees at parks and other public facilities, and offering rebates for local hire, Lukens said.

Asked if such incentives would produce enough to be worthwhile, Lukens used a restaurant analogy. He said that's like asking a hamburger stand if it will make enough money offering discounts on steaks. Unless it uses discounts and other promotions, it probably never will be able to break into the steak market, he said.

The state also should try harder to sell its filming advantages — and in language producers understand, he said.

"They (producers) need to be talking to someone who can reflect the buzzword context they're used to," Lukens said.

"We need to inform people

FISCAL NOTE

REQUEST:

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

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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
 Division: Commissioner's Office
 Approved by Commissioner: William G. Demmert
 Agency: Education

Phone: 465-2800
 Date: 3/22/90
 Date: 3/22/90

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

6-0553D
Bannister
3/22/90

Original sponsor(s): Labor & Commerce Committee

1 IN THE HOUSE

BY THE C&RA COMMITTEE

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

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND 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 an interest rate that is
5 equal to the amount set out in AS 45.45.010(a), unless an agreement
6 exists between the seller and the school district that establishes a
7 lower rate of interest or precludes the charging of interest.

8 (d) Except as provided in (f) of this section, this section does
9 not apply

10 (1) if the cost of the goods or services purchased exceeds
11 \$500,000;

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

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

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

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

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

28 (g) In this section,

29 (1) "dispute" means a determination by the school district

1 official responsible for authorizing the payments for the purchase of
2 goods or services that the performance or price charged is not in
3 compliance with the terms of the contract or purchase order;

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

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

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

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

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

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

14 (2) 30 days after the goods or services are received and
15 the municipality that is responsible for paying for the purchase
16 receives a proper billing for the amount of the payment due, if a date
17 on which payment is due is not established by contract and if the
18 billing contains or is accompanied by documents required by the con-
19 tract or purchase order.

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

25 (c) If payment for goods or services purchased by the municipal-
26 ity is not made on or before a required payment date under (a) of this
27 section, the municipality shall pay interest on the unpaid balance
28 from the required payment date at an interest rate that is equal to
29 the amount set out in AS 45.45.010(a), unless an agreement exists

1 between the seller and the municipality that establishes a lower rate
2 of interest or precludes the charging of interest.

3 (d) Except as provided in (f) of this section, this section does
4 not apply

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

7 (2) if the cost of the goods or services purchased exceeds
8 \$500,000;

9 (3) to payment for specific goods or services in dispute
10 after a seller of goods or services receives notice from the municipal
11 official responsible for authorizing payment for goods and services
12 that the amount of the invoice or quality of specific goods or ser-
13 vices is in dispute and stating the reasons for the dispute; the
14 municipality shall pay for the specific goods or services in dispute
15 within 30 days after the resolution of the dispute;

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

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

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

22 (f) If a dispute under (d)(3) of this section is resolved in
23 favor of the seller, (c) of this section applies to the payment for
24 the goods or services involved in the dispute.

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

29 * Sec. 5. This Act does not apply to purchase contracts entered into
SCS CSHB 139(C&RA)

1 before July 1, 1990.

2 * Sec. 6. This Act takes effect July 1, 1990.

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HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX V, JUNEAU 99811

(907) 465-3892



RECEIVED

FEB 20 1990

February 16, 1990

MEMORANDUM

To: Senator Mike Szymanski, Chair
Senate Community and Regional Affairs Committee

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

Re: Request for hearing on HB 139

I am writing to request that HB 139, relating to timely payment for goods and services by municipalities and school districts, be scheduled for a hearing before the Senate Community and Regional Affairs Committee at your earliest convenience.

A referral file has already been sent to your Committee. Please contact me or House Labor and Commerce Committee staff at 4954 if you have any questions or need additional information.

dd/gbs90
b/hb139



**AMERICAN SUBCONTRACTORS
ASSOCIATION OF ALASKA**

2908 Commercial Drive
Anchorage, Alaska 99501
907 - 276 - 6893

RECEIVED

FEB 20 1990

February 16, 1990

Senator Szymanski
P.O. Box V
Juneau, AK 99811

Dear Senator Szymanski:

On behalf of the Alaska Chapter of American Subcontractors Association I want to ask for your support and assistance in passing HB 284 having to do with prompt payment on public construction projects.

Prompt payment has led the concerns of subcontractors for some years now. In 1989 A.S.A. joined forces with A.G.C. of Alaska to work on legislation fair to all contractors, subcontractors, material suppliers and government owners before presenting the principals in Juneau. In March 89, a draft was presented to Representative Boyer with full support by A.S.A. and A.G.C. Alaska Chapters.

Before passing the House, because of objections by the Municipal League, revisions were made in three areas. The first change in section #1 -- payment deadline has been changed to 30 days after receipt of payment request. Second, if grant money is to be used, payment terms are 21 days after payment request has been received. Here we inserted "or within 21 calendar days of the date the subdivision actually receives the grant money, which ever is later." The third change will exempt approximately 75 % of the political subdivisions by exempting those with a population of 800 or less, (page 7 <4>).

I understand you have requested and received this bill for review and hearings before it is to be heard by the one committee referral, Labor and Commerce, in 1989.

We believe prompt payment as outlined in HB 284 is a positive step to assure fair dealings among the entire construction industry. As funds are available and set aside for public projects and only require interest on late payments, passage of this bill will protect interest of prime contractors, subcontractors, material suppliers as well as government in the payment process.


I urge you to schedule this bill as early as possible in this session and ask your consideration in supporting prompt payment on public construction projects. I will be in Juneau February 26th - 27th and look forward to meeting with you to discuss this further.

Sincerely,



Roxanna Horschel
Chapter President

cc: Senators Steve Frank
Al Adams
Drue Pearce
Pat Pourchot



PHONE (907) 572-1155
TELEX 26-569

FENCE COMPANY

10360 HIGH RD. ANCHORAGE, AK 99515

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Ribelin Lowell & Company

INSURANCE BROKERS, INC.

1111 Commercial Building, Anchorage, Alaska 99501-3111
Phone: (907) 544-1291, (907) 544-4511

February 16, 1990

RECEIVED
FEB 20 1990

Senator Szymanski
P. O. Box V
Juneau, Alaska 99811

Dear Senator Szymanski:

I understand HB 284 has been turned over to the Senate Community and Regional Affairs Committee and has received opposition by the Municipal League.

Whatever reason the Municipal League has for opposing prompt payment, I ask you to give at least equal consideration to the contractor's reasons for supporting HB 284.

Cash flow is a very important factor to contractors who must pay labor wages weekly, post a contractor's bond, make timely tax payments and prepay insurance to comply with required coverages, in order to participate in a public construction project.

The purpose of HB 284 is to recognize the "time value of money." The requirement to pay promptly or pay interest recognizes this concept and encourages timely payments. The failure of an owner to promptly pay a contractor, or a contractor to promptly pay a lower tiered subcontractor or supplier should carry an interest assessment to recognize the time value of money.

Please schedule HB 284 for hearings as early as possible this session. This is important to contractors in Alaska, and we will appreciate your consideration for supporting this bill.

Sincerely,

RIBELIN LOWELL & COMPANY



Richard L. Lowell
President

RLL:crb

cc: Senators Steve Frank
Albert Adams
Drue Pearce
Pat Pourchot



a division of Alaska Basic Industries

ANCHORAGE SAND and GRAVEL CO., INC.

1813 E. 1st Ave., Anchorage, Alaska 99501 • Phone 274-5691 • Fax #(907) 276-2928

RECEIVED

FEB 20 1990

February 15, 1990

Senator Szymanski
P.O. Box V
Juneau, AK 99811

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Please schedule HB 284 for hearings as early as possible this session. This is important to contractors in Alaska, and we will appreciate your consideration for supporting this bill.

Sincerely,

Herbert C. Lang

cc: Senators Steve Frank
Albert Adams
Drue Pearce
Pat Pourchot

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

December 27, 1989

The Honorable Mike Szymanski
Alaska State Senator
3111 C Street, Suite 510
Anchorage, AK 99503

Dear Senator Szymanski:

You recently requested, and received, a position paper from the Department of Community and Regional Affairs on House Bill 139.

Enclosed please find a memorandum from Commissioner Mercurieff to Bob Evans regarding that bill. I thought you might want it for your committee file.

Sincerely,

A handwritten signature in cursive script that reads "Shari Kochman".

Shari Kochman
Legislative Staff Assistant

Enclosure

MEMORANDUM

State of Alaska


TO: Bob Evans
Deputy Chief of Staff
Office of the Governor

DATE: December 22, 1989

FILE NO.:

TELEPHONE NO.: 465-2500

SUBJECT: CSHB 139(Fin)


FROM: Larry Mercurieff, Commissioner
Department of Commerce and
Economic Development

You have asked for the department's comments on the draft position paper for CSHB 139(Fin) prepared by the Department of Community and Regional Affairs.

The Department of Commerce and Economic Development supports timely payment of bills. School districts and municipalities throughout the state are encouraged to purchase goods and services locally whenever possible. In most circumstances, that means they are dealing with small businesses where cash flow is a constant concern. Failure to receive payments on time could cause a financial hardship on small businesses, especially in a down economy.

Passage of HB 139 would encourage school districts and municipalities to make their internal operations more efficient. Often, the inability to make prompt payments is not caused by the accounts payable section, but elsewhere within an organization. Many municipalities and school districts have policies regarding payment of purchases. For example, a few years ago, the City and Borough of Juneau began requiring that payments for goods and services be made within 30 days of receipt of a statement. A dramatic improvement occurred in making prompt payments to vendors. Local ordinances allow latitude for fiscal procedures which fit the local situation.

The House Finance Committee version of the bill incorporates an amendment which provides that the requirements of the bill do not apply if the municipality has adopted an ordinance with substantially similar procedures governing the payment of its purchases. The department supports that amendment.

Although the department does strongly support the concept of municipalities and school districts paying bills on time, particularly from a small business point of view, I have difficulty with the state placing such restrictions on municipalities. The responsibility for ensuring timely payments should come from the local governments which are a party to the contracts, rather than be imposed by the state.

LM/LW/dg15975D
122289c

cc. David Hoffman, Commissioner, Department of Community
and Regional Affairs
Jamie Parsons, Director, Division of Business Development

A M E N D M E N T

OFFERED IN THE SENATE

BY THE C&RA COMMITTEE

TO: CSHB 139 (Finance)

Page 2, lines 4 - 5:

Delete "the rate of 1.5 percent a month"

Insert "an interest rate that is equal to the amount set out in
AS 45.45.010(a)"

Page 2, line 7, following "interest.", through line 11:

Delete all material.

Page 4, lines 3 - 4:

Delete "the rate of 1.5 percent a month"

Insert "an interest rate that is equal to the amount set out in
AS 45.45.010(a)"

Page 4, line 6, following "interest.", through line 9:

Delete all material.

March 15, 1990

AMENDMENT

OFFERED IN THE SENATE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

TO: CSHB 139 (FINANCE)

Page 4, line 29 through Page 4, line 9:

(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 an interest [THE] rate that is equal to the amount set out in AS 45.45.010(a) [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 THE MONTH, THE MUNICIPALITY SHALL PAY THE SAME AMOUNT OF INTEREST FOR THE FRACTION OF A MONTH AS IT WOULD PAY FOR A FULL MONTH.]

Alaska
MUNICIPAL
League

TELEPHONE
(907) 586-1325
FAX 463-5480

217 SECOND STREET, SUITE 200
JUNEAU, ALASKA 99801

March 15, 1990

MEMORANDUM

TO: Senator Mike Szymanski, Chair, Senate Community and Regional
Affairs Committee

FROM: Scott A. Burgess, Executive Director *SAB*

SUBJECT: HB 139 - Prompt payment for purchases

You have also scheduled CS for HB 139 (Finance) for Thursday, March 22, 1990. Again the AML has opposed this bill and again I will be out of town for the Thursday hearing. If you intend to move the bill on Thursday, I would request the Committee adopt the attached amendment reducing the interest from 18 percent to 10.5 percent. Thank you for your consideration.

March 15, 1990

AMENDMENT

OFFERED IN THE SENATE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

TO: CSHB 139 (FINANCE)

Page 4, line 29 through Page 4, line 9:

(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 an interest [THE] rate that is equal to the amount set out in AS 45.45.010(a) [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 THE MONTH, THE MUNICIPALITY SHALL PAY THE SAME AMOUNT OF INTEREST FOR THE FRACTION OF A MONTH AS IT WOULD PAY FOR A FULL MONTH.]

Sponsor: Labor and Commerce

CS HB 139: Act relating to payments for purchases by school districts and municipalities

Bill purpose is to require municipalities and school districts to pay for their purchases of goods and services:

- 1) by the date on which payment is due
- 2) within 30 days after the goods or services are received

If payment is not made within the specified time, the school district or municipality shall pay interest on the unpaid amount from the required date at the rate of 1.5% a month. The school district will also be liable to pay a full month's interest for each fraction of a month.

DCRA Position:

Payment for purchases made by municipalities and school districts are local issues that are most appropriately dealt with on a local basis. There is no need for the state to mandate prompt payment. If there is a dispute between a seller and purchaser, it is best handled through small claims or other legal action.

AML Position:

The rate for any late payments should not be at a 1.5% per month rate with a fraction of a month counting as an entire month. AS 36.90.010, dealing with construction contracts charges retainage interest at 10.5% per annum. This is a more appropriate rate for delinquent payment. AS 36.90.010 doesn't use the fractional months, which can present serious penalties.

Since local city councils and school boards generally approve payment of bills, HB 139 doesn't take into account the fact that these local government bodies may only meet once a week or every other week. Often, it may be difficult for bills to be submitted for calendaring in time to be included on a council or board meeting agenda. HB 139 gives no latitude for different purchasing and payment procedures established by different local bodies.

The interest should not apply for the first month, even if late.

State local

Payments - on contracts - mandates - contractors
increments of payment, cost of government, use not against
the policy, no specific cases =
- prompt pay (subcontractors)
- Pat Parnell (prompt payment)
Semin Areas
Small communities
ie Houston
meet once a month

Sign In

<u>Name</u>	<u>Address</u>	<u>Representing</u>
Suzanne R. Little	177 N Birch St Soldotna AK 99669	City of Soldotna
Wassie W. Balluta SR.	P.O. 170 Iliamna, AK 99601	Lake Peninsula Borough
Nancy Gross	Box 1210, Cordova 99574	City of Cordova
Hakey Purdy	Box 187, Galena, 99741	City of Galena
KEVIN "PAT" PARNELL	Box 10-1776, 99510	M.O.A. ASSEMBLY
Heather Flynn	918 R St. 99501	MOA Assembly
Crystal Smith	217 2nd St, Suite 200 Juneau	AML
Remona Henderson	P.O. Box 13 JUNEAU, AK 99811	DCEA
XXXXXXXXXX		
Dorothy H. Jones	Box 1408, PALMER AK 99475	AML Board
Gayle J. Vaughan	710 Mill Bay Rd, Kodiak 99645	RECOMPAT-SUBORD AML Legislative Comm Kodiak, Alaska
Scott Burgess	217 Second Street, Suite 200 217 Second Street Juneau 99801	Alaska Municipal League

Sign In


<u>Name</u>	<u>Address</u>	<u>Representing</u>
Robert Brodie	Box 1397 Kodiak AK 99615 486-3224	city of Kodiak
Tom Briggs	PO Box 23 Craig AK 99921 826-3275	City of Craig
JIM FASMAN see Mc Canerney	PO Box BH Juneau PO Box 406 - Seward 99664	DCRA Special Tax Committee
PAUL CHIZMAR	Box 1267 FAIRBANKS	FNSB Assembly
Kristin Lambert	Box 3475, Soldotna	AML/Soldotna
Frank Bartos	P.O. Box 56335 NORTH POKE 99705	AML FBKS
Mona Lisa Gretler	P.O. Box 1267 FBKS, AK	AML/FAIRBANKS
JUANITA HELMS	PO Box 1267, FBK	AML/FNSB
DAVID C. CROWE	P.O. Box 1397 Kodiak	City of Kodiak
Jerome M. Selby	700 Mill Bay Road Kodiak	Kodiak Island
Judith Aslay	Box 1267 - FBKS	Borough
HEATHER SEJELL	Box 234. Chitina, AK. 99704	Fairbanks North Star Borough
Marian Estelle	P.O. Box 713 Petersburg 99533	City of Anderson
Betty J. Glick	P.O. Box 528 Kenai, 99611	City of Petersburg
Gary Lewis	PO 1608 Palmer, 99645	Kenai Peninsula Bor. Matanuska Susitna Bor.
Lee Sharp	P.O. Box 2977 Palmer AK 99645	self

Alaska MUNICIPAL League

TELEPHONE
(907) 586-1325
FAX 461-5480

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
Page 2

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.



Matanuska-Susitna Borough

P.O. BOX 1608, PALMER, ALASKA 99645-1608 • PHONE 745-9682

BOROUGH MAYOR

April 24, 1989

RECEIVED

APR 27 1989

ALASKA MUNICIPAL LEAGUE

Senator Albert Adams
Chairman, HCRA
Alaska State Legislature
P. O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Senator Adams:

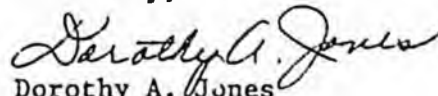
I have had an opportunity to review HB139. I foresee little or no impact in applying the State Procurement Code to Borough and School District activities. I believe that the Borough currently complies, voluntarily, with the requirements of AS 37.05.285. This issue, as presented in this bill, relates 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,


Dorothy A. Jones
Mayor

nm

cc: Representative Ronald Larson
Representative Curt Menard
Senator Jalmar Kerttula
Senator Mike Szymanski
Scott Burgess, Alaska Municipal League

BILLS CURRENTLY IN (C) CRA
 * BILL # SHORT TITLE

6:15 AM 11/15/89
 070303

WTE

Bill #	Short Title	Author	Date
HB 139	PAYMENT FOR PURCHASES, SCHOOLS/MUNICIPAL	(H) LAG	01/14/89
HB 203	TEACHER CERTIFICATION	MACLEAN	03/09/89
HB 11	LAND TRADE: SELDOVIA NATIVE ASSN & STATE	NAVARRE	05/06/89
HB 2	KACHEMAK BAY STATE PARK	FINDLEY	04/09/89
SB 1	BONNARD COMMISSION COMPENSATION	STURE LEWIS	01/09/89
SB 77	ADD INFORMATION FOR HEALTH CARE WORKERS	FLIGHT	01/09/89
SB 86	GRANT CRANES FOR LOCAL GOV. & VETS	FRANK	01/09/89
SB 14	STATE PAYMENT BY STATE		1/23/89
SB 142	AUTHORIZING MUNICIPAL PORT AUTHORITY	MUNICIPAL	
SB 275	OFF TRAIL SETTLEMENT FACING PORT TOWN	(C) CRA	04/14/89
SB 289	CONSTRUCTION CONTRACT PAYMENTS	FAHREY AND	01/15/89
SB 307	REPURCHASE FROM MUNICIPAL PROPERTY	FEARNS	04/27/89
SB 204	MUNICIPAL TAXATION OF STATE TRAIL	FLIGHT	04/27/89
SB 317	ADD POWDER ISL TO KACHEMAK BAY ST PAR	SZYBANSKI	05/09/89
SB 374	GRANTER OFFICE FOR ALL VICTIMS	KERTOLA	05/09/89

**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.

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:bl

Sponsor: Labor and Commerce

CS HB 139: Act relating to payments for purchases by school districts and municipalities

Bill purpose is to require municipalities and school districts to pay for their purchases of goods and services:

- 1) by the date on which payment is due
- 2) within 30 days after the goods or services are received

If payment is not made within the specified time, the school district or municipality shall pay interest on the unpaid amount from the required date at the rate of 1.5% a month. The school district will also be liable to pay a full month's interest for each fraction of a month.

DCRA Position:

Payment for purchases made by municipalities and school districts are local issues that are most appropriately dealt with on a local basis. There is no need for the state to mandate prompt payment. If there is a dispute between a seller and purchaser, it is best handled through small claims or other legal action.

AML Position:

The rate for any late payments should not be at a 1.5% per month rate with a fraction of a month counting as an entire month. AS 36.90.010, dealing with construction contracts charges retainage interest at 10.5% per annum. This is a more appropriate rate for delinquent payment. AS 36.90.010 doesn't use the fractional months, which can present serious penalties.

Since local city councils and school boards generally approve payment of bills, HB 139 doesn't take into account the fact that these local government bodies may only meet once a week or every other week. Often, it may be difficult for bills to be submitted for calendaring in time to be included on a council or board meeting agenda. HB 139 gives no latitude for different purchasing and payment procedures established by different local bodies.

The interest should not apply for the first month, even if late.

Chapter 90. Miscellaneous Provisions.

Section

10. Public construction contract pay-
ments
50. Maintenance of state marine vessels

Section

100. Compliance of contracts with profes-
sional registration requirements.

Sec. 36.90.001. [Renumbered as AS 36.90.010.]

Sec. 36.90.010. Public construction contract payments.

(a) The state shall initiate procedures to pay the contractor under a public construction or public work contract within 15 days after the contractor submits to the state a bill for materials provided or services performed and a sworn statement that all employees employed on the project by the contractor and all subcontractors have been paid not less than the established prevailing rate of pay as determined and published by the Department of Labor.

(b) If the state fails to make a payment due the contractor under this section within 30 days after receiving a contractor's billing, the state shall pay interest to the contractor under AS 45.45.010(a) on the amount due.

(c) The state or a political subdivision of the state is liable to a contractor registered under AS 08.18 for interest at the rate provided in AS 45.45.010(a) on retainage on a contract for public works or public construction. Interest on retainage accrues from the date of approval of a pay estimate until the date of payment to the contractor. A contract provision purporting to waive the interest provisions of this subsection is void as contrary to public policy.

(d) A political subdivision that has a population of 500 or less is exempt from the payment of interest provided in (c) of this section.

(e) A political subdivision that receives a state grant for a public construction or public works project may use money from the state grant to pay the interest on retainage under contracts for the project as required by (c) of this section. (§ 1 ch 85 SLA 1982)

Revisor's notes. — Formerly AS 36.90.001. Renumbered in 1986.
Editor's notes. — Section 3, ch. 85, SLA 1982, provides that the provisions of the act apply to contracts entered into after July 1, 1982.

Sec. 36.90.050. Maintenance of state marine vessels. (a) A marine vessel owned by the state may not be transported outside of the state for the purpose of maintenance or repair unless the commissioner of transportation and public facilities determines that there is no facility in the state able to perform the maintenance at a price that is in the state's best interests. In making this determination, the commissioner shall consider, and document through written findings.

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 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 originally 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)



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
State Capital
Juneau, Alaska 99811
(907) 465-4978/4979

COMMITTEES

Chair:

- * Community & Regional Affairs
- Special Committee on International Trade & Tourism

Member:

Judiciary Committee
Legislative Council

Interim:
3111 C Street
Suite 510
Anchorage, Alaska 99503
(907) 561-7617
or
165 E. Parks Highway
Suite 105
Wasilla, Alaska 99687
(907) 376-MIKE

SENATE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

November 18, 1989

Meeting Agenda

- I. Introduction by Senator Szymanski, Chair
- II. Issues
 - A. Prompt Pay Bills
 - *HB 139
 - *HB 284
 - B. Community concerns and needs in the aftermath of the Exxon Valdez oil spill.
 1. Bob Brodie, Mayor, City of Kodiak
 2. Dale Daiger, City of Cordova
 - C. Open topic forum
- III. Conclusion

Senate District E

Mat-Su • So. Anchorage • Birn/Indian • Girdwood • Whittier • Nikiski • Cooper Landing • Hope • Seward • Cordova • Valdez

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892



November 16, 1989

M E M O R A N D U M

To: Senator Mike Szymanski, Chair
Senate Community and Regional Affairs Committee

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

Re: Public Hearing on HB 139

I understand from reading the Alaska Municipal League newsletter that the Senate Community and Regional Affairs Committee will be taking public testimony on HB 139 during the Municipal League Conference in Juneau on Saturday, November 18.

HB 139, a measure requiring municipalities and school districts to pay their bills in a timely manner, was introduced by the House Labor and Commerce Committee at the request of Alaska's small business community. The NFIB and numerous small businesses have testified that HB 139 is their top priority and that its passage is critical for them to stay in business.

Attached is a complete committee file on HB 139 and the various committee substitutes in the House. Representative Finkelstein will be attending the Senate C&RA Committee hearing and I'd appreciate it if you would see that he receives a copy of this file.

Please call Ginger Baim at 561-7629 if you have any questions or need additional information.

Enclosure

dd/gb

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892



March 30, 1989

M E M O R A N D U M

To: Representative Ben Grussendorf, Chair
House Rules Committee

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

Re: Changes in Committee Substitutes for HB 139

Following is a description of the changes in the various committee substitutes for HB 139.

HB 139

The original version of HB 139 introduced by the House Labor and Commerce Committee applied the section of AS 37.05 that requires the state to pay its bills within 30 days or be subject to an interest/penalty of 1.5 percent per month to municipalities and school districts.

CS HB 139 (C&RA)

The House Community and Regional Affairs CS for HB 139 took the language from AS 37.05 and re-wrote it under Title 29 (Municipal Code), adding two changes to the language under state statute: 1) the "pay on time" provisions do not apply to reimbursable insurance payments and 2) the 30 day time limit does not begin until after the goods and services have been received and all the appropriate billings have been received by the municipality actually responsible for payment.

CS HB 139 (HESS)

The House HESS Committee CS took the language from AS 37.05 and re-wrote it under Title 14, governing school districts, incorporating the additional language underlined above.

CS HB 139 (Finance)

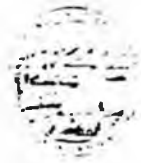
The House Finance Committee CS added new language exempting municipalities from the provisions of HB 139 if they have, by ordinance, adopted substantially similar provisions for payment for goods and services and awarding any penalty/interest due when a payment has not been made on a timely basis because of a dispute if the dispute is eventually settled in favor of the vendor.

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892



House Floor Statement by
Representative Dave Donley, Chair
House Labor and Commerce Committee

HB 139 - "PAY ON TIME" PROVISIONS FOR MUNICIPALITIES AND SCHOOL DISTRICTS

THE HOUSE LABOR AND COMMERCE COMMITTEE INTRODUCED HB 139 AT THE REQUEST OF ALASKA'S SMALL BUSINESS COMMUNITY TO ASSURE PROMPT PAYMENT FOR THE DELIVERY OF GOODS AND SERVICES TO MUNICIPALITIES AND SCHOOL DISTRICTS.

HB 139 REQUIRES SCHOOL DISTRICTS AND MUNICIPALITIES TO PAY THEIR BILLS WITHIN 30 DAYS OF RECEIPT OF GOODS AND SERVICES AND ALL THE CORRECT BILLINGS OR BE SUBJECT TO A 1.5 PERCENT PER MONTH INTEREST PENALTY. HB 139 IS IDENTICAL TO THE LAWS GOVERNING STATE PURCHASES AND PAY ON TIME PROVISIONS THAT ALL STATE AGENCIES AND DEPARTMENTS ARE BOUND TO.

THERE IS AN EXPLANATION OF THE DIFFERENCES BETWEEN THE VARIOUS HOUSE COMMITTEE SUBSTITUTES FOR HB 139 IN YOUR FLOOR PACKETS. ALL THE CONCERNS EXPRESSED BY THE MUNICIPAL LEAGUE AND SCHOOL BOARDS HAVE BEEN HEARD AND, IN NEARLY EVERY CASE, ACCOMODATED IN THE COMMITTEE SUBSTITUTE YOU HAVE BEFORE YOU TODAY.

HB 139 IS AN IMPORTANT MEASURE FOR ALASKA'S SMALL BUSINESS COMMUNITY. THE STATE HAS EXPERIENCED NO DIFFICULTIES IN COMPLYING WITH THEIR "PAY ON TIME" LAW ADOPTED THREE YEARS AGO AND, IN FACT, HAS 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.

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892



March 28, 1989

MEMORANDUM

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.

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892



February 25, 1989

M E M O R A N D U M

To: Representative Johnny Ellis, Chair
House Health Education and Social Services Committee

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

Re: Request for hearing - HB 139

I am writing to request that you schedule HB 139, an act requiring municipalities and school districts to pay their bills on time, for a hearing before the HE&SS Committee at your earliest convenience.

HB 139, introduced by the House Labor and Commerce Committee, passed out of the House Community and Regional Affairs Committee last week. You should have received a referral file from them with all the appropriate back up information for the bill.

Please call Ginger Baim or Colette Jensen at 4954 if you have not received an adequate referral file or if you have any questions or need additional information.