

**H B**

**139**

### FISCAL NOTE

**REQUEST:**

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

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

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES				-		
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

**FUNDING:** (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

[Empty box for analysis]

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

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

by Adams

A M E N D M E N T #1

OFFERED IN THE SENATE

Senate CS for  
TO: CSHB 139 ( C&RA )

Page 2, lines 4 - 5:

Delete "the rate of ~~1.5~~ percent a month" *15% per year*

Insert "an interest rate that is equal to the amount set out in AS ~~45.45.010(a)~~" *15%.*

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" *15% per year*

Insert "an interest rate that is equal to the amount set out in AS 45.45.010(a)" *15% per year*

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

Delete all material.

# HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 463-3892

April 9, 1990

*500, 400*

## MEMORANDUM

To: Senator Paul Fischer, Chair  
Senate Health, Education and Social Services Committee

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

Re: HB 139 - Payment for purchases by school  
districts and municipalities.

HB 139 requires school districts and municipalities to pay for goods and services within 30 days of delivery, or be subject to interest penalties for payments owed. The state has been operating under an identical statutory requirement for several years.

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.

A memo outlining the changes in the various House committee substitutes is enclosed in your Committee file. The essential elements of the version of HB 139 that passed the House unanimously last year are:

1. Language in Title 29 (municipalities) and Title 14 (school districts) requiring that payments for goods and services be made within 30 days of delivery and receipt of all appropriate billings by the municipality actually responsible for payment.
- ✓ 2. Establishing a 1.5 percent interest penalty for late payments.
3. Exempting municipalities that have adopted substantially similar provisions for prompt payment.
4. Awarding any penalty due when a payment was late because of a dispute and the dispute is eventually settled in favor of the vendor.

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 four 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 business in the process by assuring timely payment for the services they provide local government.

dd/gbs90  
b/hb139-1

# 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

March 28, 1989

## M E M O R A N D U M

To: Members, House Finance Committee

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

Re: CS for HB 139 (HESS)

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

The original version of HB 139 extended AS 27.05, 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 Federal 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 business community by assuring prompt payment for the services they provide to the government.

**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 personally delivered to the seller or agent of the seller or on the date the payment is mailed;

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

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

Editor's notes. — Section 2, ch. 2, SLA 1986. Renumoered in 1986.

#### 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)

February 3, 1989

HOUSE BILL NO. 139 by the Labor & Commerce Committee, entitled:

"An Act relating to payments for purchases by school districts and municipalities; and providing for an effective date."

was read the first time and referred to the Community & Regional Affairs, Health, Education & Social Services and Finance Committees.

February 17, 1989

The Community & Regional Affairs Committee has considered:

HOUSE BILL NO. 139

"An Act relating to payments for purchases by school districts and municipalities; and providing for an effective date."

and recommends it be replaced with the following committee substitute:

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

Recommending do pass (2): Foster, Cato

No recommendation (2): MacLean (Chairman), Pettyjohn

Other recommendations (1): C. Davis (signed "needs amending")

Two zero fiscal notes by the Department of Education and the Department of Community & Regional Affairs were published February 17, 1989.

HB 139 was referred to the Health, Education & Social Services Committee.

March 17, 1989

The Health, Education & Social Services Committee has considered:

HOUSE BILL NO. 139

"An Act relating to payments for purchases by school districts and municipalities; and providing for an effective date."

and recommends it be replaced with the following committee substitute:

CS FOR HOUSE BILL NO. 139 (HESS)  
(same title)

Recommending do pass (4): Ellis (Chairman), Goll, Jacko, Gruenberg

No recommendation (1): C. Davis

Two previous zero fiscal notes by the Department of Community & Regional Affairs and the Department of Education, published February 17, 1989, apply to CS HB 139 (HESS).

HB 139 was referred to the Finance Committee.

March 31, 1989

The Finance Committee has considered:

HOUSE BILL NO. 139

"An Act relating to payments for purchases by school districts and municipalities; and providing for an effective date."

and recommends it be replaced with the following committee substitute:

CS FOR HOUSE BILL NO. 139 (Finance)  
(same title)

Recommending do pass (5): Larson (Co-chairman), Shultz, Barnes, Phillips, Rieger

Recommending do not pass (2): Hoffman (Co-chairman), Wallis  
Amend (1): Ulmer

No recommendation (3): Swackhammer, Brown, Koponen

Two previous zero fiscal notes by the Department of Education and the Department of Community & Regional Affairs, published February 17, 1989, apply to CSHB 139(Fin).

HB 139 was referred to the Rules Committee for placement on the calendar.

HOUSE COMMITTEE ACTION, HB 139:

February 16, 1989

Chairperson MacLean explained that HB 139 would require payment of purchases by municipalities and school districts within 30 days of the receipt of all billing material and necessary documentation. Failure to do so would result in interest accrual at the rate of 1.5% per month.

Chairperson MacLean further stated that similar legislation was introduced by Representative Donley in the prior legislative session. She mentioned that a variety of concerns regarding this legislation were raised during hearings held by the House Community and Regional Affairs Committee.

Chairperson MacLean noted that a committee substitute had been prepared with the assistance of Rep. Donley to address some of these concerns.

Chairperson MacLean pointed out that the first concern the committee substitute addresses was raised by the Alaska Municipal League. It was expressed that the State Procurement Code should not be applied to municipalities. The committee therefore removed this language. She further stated that the language requiring prompt payment has been inserted into the Municipal Code, Title 29.

Chairperson MacLean stated that the committee substitute would also require that the service or goods being provided and all billing documentation be received by the municipality responsible for the payment before the 30 day period begins.

Chairperson MacLean mentioned that this would assure that in rural areas of the state, where mail service is only biweekly or weather conditions can prevent service, that the borough government, which is responsible for a billing sent to a outlying village, has sufficient time to comply once the billing is received.

Chairperson MacLean further stated that the last change to the bill would exempt a payment for which reimbursement is available to the municipality under an insurance contract. Chairperson MacLean pointed out that prompt payment of bills should be encouraged and that the state should try to protect the rights of small and large contractors. She stated that the purpose of this legislation is to encourage efficient bookkeeping and not to penalize municipalities for situations in which they have no control.

Chairperson MacLean stated that there are zero fiscal notes from the Department of Education and the Department of Community and Regional Affairs.

Number 099

JIM PLASMAN, DEPUTY DIRECTOR, DIVISION OF MUNICIPAL & REGIONAL ASSISTANCES, DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS, stated that the Department of C&RA has not issued a position paper on HB 139. He stated that there was no fiscal impact on the department.

Mr. Plasman noted that the committee substitute addressed

bankruptcy because of nonpayment from local governments. He further stated that it may inject some fiscal responsibility upon local communities.

Rep. Donley posed the question of what would be a reasonable amount of time 30, 60, 90 or 120 days. He expressed that there ought to be some level of responsibility by governments to fulfill their obligation to citizens in good faith for providing services or products.

Number 373

Rep. C. Davis asked if a problem had been identified within either the municipalities or school districts?

Number 386

Rep. Donley replied that the bill is a result of hearings that the House Labor & Commerce held two summers ago. He further stated that the meetings were with small businesses and individuals who had encountered difficulties in getting paid by local governments.

Rep. Donley stated that the principle behind local government is that local governments exist only because state government exists.

Number 407

Rep. Foster asked if municipality would include village government.

Number 410

Rep. Donley replied in the affirmative. He further stated that there should be a responsible amount of time.

Number 418

Rep. Foster stated that he can understand their concerns but stated that he was engaged in private enterprise for 20 years. He provided air taxi services mostly to state and federal school districts. He pointed out that he never had any problems with getting paid for services. The worst offender was probably the federal government but as far as the state, city and school districts were concerned, payments were prompt. He further stated that he wasn't aware that there was such a problem out there in receiving payment.

Rep. Foster stated that the state and city governments realize their responsibilities, especially in small communities, in the importance of cash flow. They bend over backwards to assist private enterprise.

Number 434

Rep. Donley replied, "That's great. If that's the case then this bill isn't going to hurt them at all."

Number 438

Rep. Foster stated that he can foresee a village government which is broke and waiting for a grant. He gave the example of funding freezing up and the village not being able to receive their grant in time to pay for services in 30 days due to the mandating in statute.

Number 440

Rep. Donley stated he felt that it would be wrong if the village was broke to try and entice a company to come and

Number 559

Chairperson MacLean stated that the following letter which was just received from Dolly Farnsworth and Thomas Boedeker would be put into the record.

To: Crystal Smith, Alaska Municipal League  
From: Dolly Farnsworth, Mayor, City of Soldotna  
Chair Taxation Finance Subcommittee  
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 payments 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 agenda 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, HB 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 the 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 the municipality which in some cases may take several days for mail. Because of personnel limitations, municipalities often have fixed schedules for payment of accounts receivable of every other week. This would put payment beyond the 30 days and thus invoke the interest

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 government in establishing its relationship to the community and its vendor. 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.

Number 564

Rep. Foster made a motion to move CS HB139 C&RA out of committee with individual recommendations.

Hearing no objection the motion passed.

Rep. Foster asked Rep. Donley if this bill just did not get acted on in the last session.

Rep. Donley replied that it was entered late in the second year as the result of hearings held during the interim.

March 16, 1989. HESS

The next item of business before the committee was HB 139.

Number 128

GINGER BAIM, House Labor and Commerce Committee staff, testified on HB 139. She said that the bill would require purchasers in state government to pay within 30 days upon receipt of goods/services and there would be an interest penalty of 10.5% attached if they didn't pay. The language of the bill was identical to the language in the state procurement code, but it would be placed under Title 29, the Municipal code. Ms. Baim explained that the bill was not meant to penalize individuals and/or organizations in situations where expenditures take time to be authorized by governing bodies. She described a typical procurement relationship between a school district and a vendor, and time limitations in a remote part of Alaska.

Number 134

Ms. Baim stated that the bill was meant to help small businesses and to provide an incentive for purchasers to push the paperwork when they can. She identified an amendment to be proposed by Rep. Donley relating to

*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.

— Alaska Municipal League Position —

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  
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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

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;...

amended  
in  
House

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*  
Dorothy A. Jones  
Mayor

nm

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