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177

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 2/2/89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035
2/16/89

DATE TURNED INTO OFFICE 3/6/89

Mr. President:

L&C Committee considered SB 177

exempting employment of more than eight but no more than 10 hours a day in certain workweek schedules of no more than four days during a seven day period from the requirement of paying overtime wages; efd

and recommended:

- replace with CS _____ same title
- attached amendment(s) and new title
- _____ letter of intent adopted
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

FISCAL NOTE(S) attached zero fiscal impact
 appropriation no FN attached Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

[Handwritten signatures]

OTHER RECOMMENDATIONS

[Handwritten: Patrick Foley no rec.]

[Handwritten signature]
Chairman signature and recommendation

Committee backup attached

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 177
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
Title: "An Act exempting employment
of more than eight ... hours..." BRU: Labor Standards & Safety
Sponsor: Adams Components: Wage & Hour
Requestor: Senate Labor & Commerce

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	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director *TS* Phone: 264-2452
Division: Labor Standards & Safety Date: 2/23/89
Approved by Commissioner: Jim Sampson *JS* Date: 2/23/89
Agency: Department of Labor

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

Bill No: Senate Bill No. 177

Date:

March 6, 1989

Title: "An Act exempting employment of more than eight but no more than 10 hours a day in certain workweek schedules of no more than four days during a seven day period from the requirement of paying overtime wages; and providing for an effective date."

Contact: Tom Stuart
Eileen Plate
465-2700

Senate bill No. 177 proposes an exemption from Alaska's overtime law for employment meeting certain criteria.

Under current law, the payment of overtime is required after 8 hours work per day and after 40 hours work per week. Under the provisions of this bill, overtime would not be required after 8 hours in a day if

- (1) the employees voluntarily agree to the pay/work hour plan and the plan is approved by the Department of Labor;
- (2) the work is divided equally between two crews who perform similar tasks but who do not work at the same time;
- (3) the two crews each work three or four (no more - no less) consecutive days per week;
- (4) the employees work at least 30 hours per week; and
- (5) the employees do not work more than 10 hours per day.

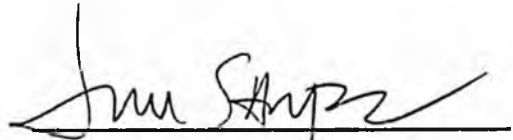
The Department's understanding is that the proposed exemption is an effort to permit workers in rural Alaska to participate in the workforce and minimize the impact on their cultural and subsistence life styles. The provisions of the bill are designed to achieve this by permitting two crews to each work, for example, 3 1/2 days per week (three 10-hour days and one 5-hour day); and, thereby have 3 1/2 days per week to pursue cultural and subsistence activities. Such a work schedule, under current law, would require the payment of 6 hours overtime per week for each worker.

POSITION PAPER/Department of Labor

The Department of Labor is historically opposed to exemptions from Alaska's overtime laws as such exemptions are an exploitation of workers. The purpose of overtime laws is to provide an economic disincentive to employers for working employees excessively. Workers should be able to make a living wage working no more than eight hours per day and 40 hours per week; and the premium pay which is required under current law for hours worked beyond these standards is designed to assure this. Nonetheless, it is difficult to argue against the provisions of Senate Bill 177 which are designed to accommodate the personal lifestyles of Alaskan workers.

In view of the bill's objectives, along with the very specific and narrow nature of the exemption, the Department's position on Senate Bill 177 is neutral.

APPROVED:



Jim Sampson, Commissioner
Department of Labor

Alaska State Legislature

Al Adams
District L

WHILE IN SESSION
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3707

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3245

3111 C Street
Anchorage, Alaska 99503
(907) 561-7622

Official Business

February 21, 1989

TO: Senator Dick Eliason, Chairman
Senate Labor and Commerce Committee

FROM: Senator Al Adams *AAA*

RE: SB 177: "An Act exempting employment of more than eight but no more than ten hours a day in certain workweek schedules of no more than four days during a seven day period from the requirement of paying overtime wages; and providing for an effective date."

I would appreciate it if you would schedule SB 177 for a hearing in the Senate Labor and Commerce Committee at your earliest convenience.

I introduced SB 177 because of the attached April 21, 1988 ruling from the Wage and Hour Division of the Department of Labor. Until this ruling, the Department of Labor did approve flexible work hour plans where the employees worked less than a 40 hour work week.

The new ruling by the Division of Wage and Hour states that "in order for the flexible work hour plan to be acceptable to the Department of Labor, the employee must be working 40 hours within the four days. (40 hours a week and not more than 10 hours a day)." It goes on to say that "any employee schedule of hours for less than 10 hours a day, 4 days a week is not acceptable as a flexible work hour plan and all hours over 8 per day must be compensated at one and one-half times the regular pay."

Certainly there are situations, especially in rural Alaska where we have a high unemployment rate and high cost of living and lack of alternate employment, when this flexible work hour plan needs to be a little more flexible....like it was until this past April.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF LABOR

3301 EAGLE STREET
P.O. BOX 107021
ANCHORAGE, ALASKA 99510-7021
PHONE: (907) 264-2452

April 21, 1988

LABOR STANDARDS & SAFETY DIVISION

Mr. David Freeman
Owens & Turner
1500 West 33rd Avenue, Suite 200
Anchorage, Alaska 99503-3639

WHOL #78

Dear Mr. Freeman:

RE: TMS Inc. Flexible Work Hour Plan

Enclosed is the Department's approval of your client's plan. I would like to take this opportunity to clarify the Department's position with regard to flexible work hour plans.

Alaska Statute 23.10.060(18)(b) clearly states that the approving certificate covers a flexible work hour plan which states the work is for 40 hours a week and not more than 10 hours a day; for work over 40 hours a week or 10 hours a day under a flexible work hour plan not included as part of a collective bargaining agreement, compensation at the rate of one and one-half times the regular rate of pay shall be paid for the overtime.

Therefore, in order for the plan to be acceptable to the Department, the employee must be working 40 hours within the four days (40 hours a week and not more than 10 hours a day). Overtime must be paid for all hours in which work is performed beyond this schedule. The plan must provide for three days off or the hours worked on the employee's scheduled days off are to be compensated at one and one-half times the regular rate of pay. Any employee schedule of hours for less than 10 hours a day, 4 days a week is not acceptable as a flexible work hour plan and all hours over 8 per day must be compensated at one and one-half times the regular rate of pay.

From my review of your client's plan, it appears to comply with these provisions.

If you have further questions, please contact me.

Sincerely,



Thomas E. Stuart, Jr.
Director
Labor Standards & Safety

Enclosure

TES/JRC:ras
PC2001

COPY

NORTHWEST ARCTIC BOROUGH

P.O. BOX 1110
KOTZEBUE, AK 99752
(907) 442-2500 / FAX 442-2930

February 23, 1989

Senator Albert Adams
P. O. Box V
Juneau, Alaska 99811

This letter supports Senate Bill 177 entitled "An act exempting employment of more than eight but no more than 10 hours a day in certain workweek schedules of no more than four days during a seven day period from the requirement of paying overtime wages..."

The borough is supportive of such legislation because it permits employment opportunities that were denied to residents of Selawik and other villages in the Northwest Arctic Borough.

This past year there were attempts by contractors on an airport project funded by the state to hire two separate crews to work for 35 hours per week at 10 hours per day and a second shift as a comparable crew to do the same thing so that several benefits would accrue to both parties as follows:

- more local people would be employed;
- a 3 1/2 workday and days off would permit employees to accomplish both work and village duties without sacrificing either responsibility;
- the contractor could work long hours in a remote location without bringing in outside, out-of-region employees;
- the intent and integrity of local hire in an economically depressed zone would be addressed; and
- it would satisfy both the contractor and potential workers.

Unfortunately the strict interpretation of Alaska Department of Labor regulations stopped an appeal from even reaching a review by the Commissioner.

In a previous year, this employment practice was used in another village (Noatak) with excellent results. However, a subsequent request and ruling stopped this process from continuing.

When the people, employees, contractors, and local governments see this as an excellent vehicle to exercise initiative, it is unfortunate that State regulations forbid this practice.

For those above listed considerations I urge you to vigorously push for an amendment to State law as represented in Senate Bill 177.

Thank you,


Chuck Greene, Mayor

cc: Rep. Eileen MacLean
Office of the Governor
Assembly Members
Alaska Municipal League
City Councils
Maniilaq Association
Maniilaq Manpower
NANA Regional Corp.
Kikiktagruk Inupiat Corp.