

HB 89

CS FOR HOUSE BILL NO. 89 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to food and housing for construction workers at remote construction sites
2 on certain state highway and airport construction projects; permitting waiver of the
3 requirement to provide food and housing or transportation and establishing an employment
4 preference for those who waive the requirement; and providing for an effective date."

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

6 * Section 1. FINDINGS. The legislature finds that

7 (1) the requirements that contractors provide food, housing and transportation to workers
8 on remote state highway and airport construction contracts will increase the cost of state construction
9 projects;

10 (2) it is in the state's best interest, to the extent possible, to reduce the cost of state
11 construction while meeting other public policy goals;

12 (3) employees at remote state highway and airport construction projects should have food
13 and housing provided for them unless they are able to obtain them for themselves;

14 (4) those employees who waive the requirement that food, housing, and transportation

1 be provided under a state highway or airport construction contract reduce the cost of state construction;
2 (5) those employees should be able to share in the advantage to the state that the waiver
3 brings and therefore an employment preference is appropriate.

4 * Sec. 2. AS 36.90 is amended by adding a new section to read:

5 Sec. 36.90.110. FOOD AND HOUSING AT REMOTE STATE HIGHWAY AND
6 AIRPORT CONSTRUCTION SITES. (a) Except as provided in (b) - (d) of this section, the
7 state shall require that a contractor provide food and housing to an employee of the contractor
8 working on a state highway or airport construction project at a remote construction site. The
9 contractor may not consider the cost of the food and housing in setting wages for the employee
10 or in meeting wage requirements under AS 23.10.065 or AS 36.05 or in determining gross
11 weekly earnings under AS 23.30.220.

12 (b) Before the award of a state highway or airport construction contract, the state shall
13 estimate the length of active, on-site workdays required to complete the project, and the number
14 of contractor employees required at peak employment periods. If the estimate indicates that the
15 project will require fewer than 60 continuous calendar days of active on-site work or fewer than
16 15 contractor employees at peak employment periods, the project is exempt from the requirement
17 to provide food and housing set out in (a) of this section.

18 (c) A contractor who provides adequate transportation to employees is exempt from the
19 requirement to provide food and housing set out in (a) of this section for those employees for
20 whom the transportation is provided. Transportation is adequate under this subsection if it

21 (1) transports the employee from the departure point to the work site in 60
22 minutes or less and if the employer pays wages to the employee for time spent travelling to the
23 work site in excess of 60 minutes; return transportation shall be provided on the same basis;

24 (2) is available each workday at times reasonably close to the beginning and
25 ending of each work shift;

26 (3) begins from and returns to a departure point that is central to either a location
27 where commercially available food and lodging establishments exist or which is the domicile of
28 the employee; and

29 (4) meets applicable transportation safety standards.

30 (d) An applicant for employment or an employee may waive the requirements of this
31 section to provide food, housing, and transportation on a state construction project. The waiver

1 must be in writing and signed by the applicant or employee. The waiver may not be revoked.
2 An applicant or employee who waives the requirements of this section is entitled to an
3 employment preference on the project.

4 (e) Unless a state construction contract for highway or airport construction is exempt
5 under (b) or (c) of this section, the specifications for the contract must contain a provision setting
6 out the requirement for providing food and housing at remote construction sites, the provisions
7 for waiver of the requirement, and the optional provisions for transportation services. When
8 these provisions are required in a contract, the contract must designate the site and include
9 relevant permits for the housing.

10 (f) The Department of Transportation and Public Facilities shall implement this section
11 by regulation.

12 (g) In this section,

13 (1) "airport" means an area of land or water that is used or intended for use for
14 the landing and take-off, movement, or parking of aircraft, and the appurtenant areas that are used
15 or intended for use for airport buildings or other airport facilities or rights-of-way, together with
16 airport buildings and facilities located at the location;

17 (2) "domicile" means the principal place of residence of an individual during the
18 90 days before employment on the state construction project;

19 (3) "highway" includes a primary or secondary highway, road, street, trail, walk,
20 bridge, tunnel, drainage structure and other similar or related structure or facility, and
21 right-of-way thereof, and further includes a ferry system, whether operated solely inside the state
22 or to connect with a Canadian highway, and any related facility;

23 (4) "remote" means a work site that is either more than 50 road miles from or
24 inaccessible by two-wheel drive vehicles from a location that has commercial food and lodging
25 establishments adequate to accommodate the work force of the state construction project;

26 (5) "state construction" means the on-site field surveying, erection, rehabilitation,
27 alteration, extension, or repair, including painting or redecorating, of buildings, highways, or
28 other improvements to real property, under contract for the state.

29 * Sec. 3. This Act does not apply to a contract for a state highway or airport construction project that
30 was entered into before September 1, 1991.

31 * Sec. 4. This Act takes effect September 1, 1991.

FISCAL NOTE

Revision Date: 4/5/91 Department Affected: DOT&PF
Title: Food/Housing at Remote Construction Sites BRU: Statewide Engineering & Operations Standards
Sponsor: House Transportation Component: Eng. & Oper. Standards
Requestor: _____ Component Serial Number: 547

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY92	FY93	FY94	FY95	FY96	FY97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	3.0	0	0	0	0	0
CONTRACTUAL	15.0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	18.0	0	0	0	0	0

CAPITAL	400.0	400.0	400.0	400.0	400.0	400.0
---------	-------	-------	-------	-------	-------	-------

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	418.0	400.0	400.0	400.0	400.0	400.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	0	0	0	0	0	0

POSITIONS

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

Estimate of current year impact: None.

ANALYSIS: (Attach a separate page if necessary)

See Attachment.

Prepared by: Jeffery C. Ottesen, Director Phone: 465-2951
Division: Engineering and Operations Standards Date: April 26, 1991
Approved by Commissioner: Frank G. Turner Phone: 465-3900
Agency: Department of Transportation and Public Facilities Date: April 26, 1991

Distribution By Preparer: Legislative Finance, Legislative Sponsor, Requestor, OMB, Impacted Agency(ies).

ANALYSIS (cont. from page 1):

Regulations

There will be approximately \$18.0 in one-time administrative costs in FY 1992 due to the costs of implement regulations; these funds will be used for legal support, advertising, public hearings and travel to public hearings. Of this amount, \$15.0 is for contractual items (legal costs \$12.0, transcriptions \$2.0, advertising \$1.0) and \$3.0 is for travel and per diem to meetings.

Operating Costs

Administrative costs of establishing new contract specifications and having them reviewed by the Attorney General's office, regional staff and federal agencies will be borne by existing operating budgets.

Opportunity Costs: Federal-Aid Capital Programs

While not a new cost requiring an appropriation the bill has the effect of raising costs on certain federal-aid highway and aviation projects and thereby reducing buying power. This cost is essentially an opportunity cost to the program. It is estimated at \$2.0 to 3.0 million annually and will result in the delay of some projects as the schedule for highway and airport improvements will stretch out accordingly. It does appear as a cost on the fiscal note.

Capital Costs: General Funded Capital Programs

For the GF capital budget, we assumed that, on average, about \$4 million dollars of general funded construction would be defined as "remote" each year, and that the cost of a camp would contribute about 10% additional expense to these projects. This amount would vary with the size of the state's capital budget and the portion of the budget that is allocated to remote projects.

HOUSE BILL 89
by
REPRESENTATIVE RICHARD FOSTER

* I introduced this bill, after discussions with some construction union representatives, in order to resolve the problems the state's remote construction projects have incurred. The problems simply put are the unhealthy living conditions for the construction workers on those projects.

* It was brought to my attention that workers on many of the projects we are building around the state have terrible living conditions. It was reported to me that many of these living situations have been the sites of unsanitary conditions that have resulted in sickness for workers and environmental damage.

* As I understand it, the state used to allow for the costs of providing camps for workers on these projects until it became an item of a bidding war between union and non-union contractors. The end result was the lowering of living standards for innocent employees on both sides. In essence, the state realized a cost savings at the expense of the workers.

* DOTPF is probably tired of hearing the complaints of the construction unions regarding the living conditions their members have had to endure over the years. I want to make it clear that DOTPF is not to blame in this situation. It's DOTPF's job to ensure quality as well as a smooth flow of productivity. I also understand that DOTPF eventually tried to correct the problem by establishing campgrounds for the construction workers, but I feel that this is not adequate to ensure people don't have to live in tents where the weather can make things almost as miserable as not having outhouses and other facilities.

* I am glad that labor, DOTPF, and the AGC have been able to settle on a compromise on this issue. I would like to commend them for working together to take care of the people who essentially are our employees. They work for a private contractor,

but we create the jobs. I don't think the state intended to have workers living in the squalor that has been reported to me.

* Another positive effect this bill will provide is a vehicle for local hire. Obviously it's in the state's best interest as well as the contractors' to hire people from the area where the project is being built. The more people a contractor hires locally, the less people the contractor will be forced to feed and house.

* I would also like to point out that a simple solution such as per diem will not address the problem properly. I'm sure some workers would rather have the extra cash a per diem allowance would bring them, but the unsanitary and unhealthy living conditions would still exist.

* The technical details of the bill will be covered by DOTPF and the labor groups who have worked so long and hard on this bill.



Department of Transportation
and Public Facilities

POSITION PAPER

BILL NO: CSHB 89

APPROVED: 

TITLE: Food/Housing at
Remote Construction Sites

DATE: April 26, 1991

This bill represents a compromise between the department and labor unions regarding a statutory provision for camps on remote construction projects. While we are not enthusiastic about this bill, neither do we oppose it. Our position is neutral.

As background, camps were at one time required thru negotiated labor agreements. With the rise of non-union contractors, the cost of camps made union contractors less competitive, and in order to ensure union contractors could secure projects this provision was eliminated by negotiations. At remote projects unsanitary living conditions occurred as employees camped wherever they could find a site, without regard for trash disposal and basic sanitary requirements. In 1990, in response to the problem, the department adopted a contractual requirement for a contractor furnished campground at remote projects. Under this arrangement, the employee must provide the tent or camper and cook his/her own meals; the contractor provides, free of charge, a full-service camp site complete with power, water and a central lavatory, shower and laundry facility.

While we believe that mandatory campgrounds are a cost effective solution, union representatives have continued to stress their preference for contractor furnished housing and meals. Aside from the policy question of whether camps or campgrounds are appropriate, the original version of the bill was unworkable for practical reasons.

The sponsor substitute has effectively addressed the impracticalities. The requirement for camps will not apply to small or short duration projects. There is also a clear point of decision before the project is let, making it clear to all bidders as to what is required contractually. Finally, a contractor may weigh the cost of a camp against the cost of compensated transportation time in order to make the most economical decision.

For Further Information contact Katy McHugh at 465-3900.

BILL NO: CSHB 89

TITLE: Food/Housing at Remote Construction Sites

DATE: April 26, 1991

While we are neutral toward the bill, we must point out the opportunity costs. Camps will in essence add to a contractor's overhead thus raising the cost of remote projects. As we operate with a fixed amount of federal money for airport and highway improvements, we will lose some purchasing power. On state-funded projects, remote projects will also require an incrementally larger appropriation. Estimates of these costs are found in our Fiscal Note.

Finally, we would like to offer a nominal amendment. The Association of General Contractors has requested that it be made explicit that when a camp is required, the state take steps to provide the site and secure necessary permits. It has always been our intent that we do so, because it removes the possibility of "sweetheart" deals regarding a site and prevents undue delays while the contractor seeks permits; we endorse a statutory requirement. Recommended is the following:

Section 1, paragraph (d) Unless a state construction contract is exempt under (b) or (c) of this section, the specifications for the contract must contain a provision setting out the requirement for providing food and housing at remote construction sites and the optional provisions for transportation services. When this provision is required the contract must include a designated site and relevant permits for the placement of contractor furnished housing.

HOUSE BILL 89
Testimony by
Don Rouleau, Business Agent
for
Alaska District Council of Laborers

* Camps were always included in the construction of the state's remote construction projects until it was discovered by a few non-union outside contractors that they could underbid Alaskan union contractors on jobs by deleting the costs of providing food and housing for their workers.

* Unfortunately, for construction workers non-union and union alike, the union contractors demanded that the contractual provisions be removed from the construction labor agreements. The unions reluctantly agreed. The contractors were then put on an even footing with the outside non-union contractors.

* The result has been a continual degradation of living conditions where there are no facilities within a reasonable distance to the jobsites. Union and non-union workers alike have been living in tents, visqueene lean-tos, the back seats of cars, and some have even built their own teepees. The lucky individuals who can afford a camper or motorhome have been fortunate enough to live off the ground and are staying dry.

* Unsanitary conditions have been the normal living environment for quite a few. Those who have campers have dug shallow holes and put their sewer hoses into barrels with holes punched into them to leach out both their grey and sewer water. Sometimes they let their sewer drain onto the ground or just drive down the road and put the hose into the ditch to empty it. Those less fortunate individuals who live in their cars and tents have been using any place that's convenient to relieve themselves.

* Imagine yourself working 12 hours a day to come home to a tent that has no facilities nearby. You've been working seven 12's for weeks and you haven't had a shower for almost as many. You then pull out the cookstove and warm up some soup and try to make a sandwich for something to eat before you fall asleep in the same tent you woke up in that morning. You then wake up early around 4 am to make something for breakfast and something to take to the jobsite for lunch. Now imagine this in the rain, or the snow that sometimes falls in the latter part of the construction season.

* How long would you last under those conditions?

* If you had to work to support your family and you couldn't leave the job for fear of losing your home to the bank because you couldn't make your payments, you would have to stick it out even if it meant getting sick and living in misery.

* One of the big problems we've found is that the average construction worker can't afford to buy a camper to stay dry and warm. That worker finds a big flaw in the system because he can't afford not to work. If he refuses the job that is offered to him that day, he doesn't know if he'll get another that season. The poorer workers are discriminated against because of their financial status.

* Some people have claimed that this bill will work against local hire because it will be easier for outside workers to come up and be fed and housed by the contractor. The exact opposite is true - the more people a contractor hires near the actual jobsite, the less he will have to provide food and housing for.

* Furthermore, contractors who come up from outside and successfully bid on a job tell a lot of their people to get up to Alaska early and they often drive up in their campers ready to go to work. The the leave with out spending much of their money inside Alaska.

* The draft CS you have before you is the result of a few years of negotiations with DOTPF and the AGC. I hope you will find it in your hearts to alleviate the deplorable working conditions remote construction workers have to live with at the job site.