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262

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL No. 1
Version: SB 262
(S) Publish Date: 5/10/91

Revision Date: _____
Title: "An Act relating to coverage of certain executive... under... minimum wage..."
Sponsor: Senate Labor & Commerce
Requestor: Senate Labor & Commerce

Department Affected: Labor
BRU: Labor Standards & Safety
Component: _____
Wage & Hour
COMPONENT SERIAL NO. 345

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

Changes in CSB 262 (4C) have no fiscal impact. This fiscal note is appropriate.

5-8-91 RAM
date Comte Aide (initial)

Prepared by: Bob Libbey, Director

Phone: 264-2452

Division: Labor Standards & Safety

Date: 5/2/91

Approved by Commissioner: Nancy Bear Usura

Agency: Department of Labor

Date: 5/2/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Bill No: Senate Bill No. 262 (L&C)

Date: May 13, 1991

Title: "An Act relating to coverage of certain executive or administrative employees of retail or service establishments from the overtime requirements of the state minimum wage laws"

Contact: Eileen Plate
465-2700

Committee Substitute for Senate Bill 262 (L&C) seeks to align Alaska's overtime exemption criteria for executive/administrative employees in retail and service establishments more closely with the criteria applied under the Fair Labor Standards Act (FLSA).

The FLSA distinguishes executive/administrative employees in retail and service establishments from those similarly employed in other establishments. Specifically, for the purposes of exemption, the FLSA provides that employees in retail or service establishments are exempt if the employees spend at least 60% of their time performing executive/administrative duties. For employees in other establishments, the requirement is 80%.

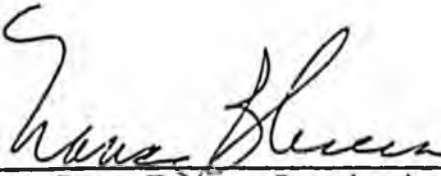
Current Alaska law exempts bona fide executive and administrative employees from Alaska's Wage and Hour Act, which includes overtime laws; however, no differentiation is made between types of establishments. Departmental regulations require use of the 80% criteria "across-the-board" for determining whether or not an employee is a bona fide executive or administrative employee for overtime exemption purposes.

As permitted under the FLSA, under the provisions of this bill, the 60% work responsibility criteria would be used. Specifically, employees of retail or service establishments who spend at least 60% of their time each week performing executive/administrative duties would be exempt from Alaska's overtime law. The bill further stipulates that the exemption would be operative only if the executive/administrative employee earns at least twice the minimum wage, based upon a 40 hour work week. Presently, this would be \$380 per week (\$4.75/hr (minimum wage) x 2 x 40 hours).

Inasmuch as many retail and service establishments in Alaska (hotels and restaurants, for example) employ large numbers of lower paid workers, the wage floor provisions in the committee substitute mitigate the Department's concern regarding a relaxation of the overtime law.

The provisions of this bill will not have a fiscal impact on the Department.

APPROVED:


Nancy Bear Userra, Commissioner
Department of Labor

POSITION PAPER/Department of Labor

7-LS1142N
Cramer
5/7/92

HOUSE CS FOR CS FOR SENATE BILL NO. 262 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to coverage of certain executive or administrative employees of retail or
2 service establishments from the overtime requirements of the state minimum wage laws;
3 and providing for an effective date."

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

5 * Section 1. AS 23.10.060(d) is amended to read:

6 (d) This section does not apply with respect to

7 (1) an employee employed by an employer employing less than four employees
8 in the regular course of business, as "regular course of business" is defined by regulations of the
9 commissioner;

10 (2) an employee employed in handling, packing, storing, pasteurizing, drying,
11 preparing in their raw or natural state, or canning agricultural or horticultural commodities for
12 market, or in making cheese or butter or other dairy products;

13 (3) an employee of an employer engaged in small mining operations where not
14 more than 12 employees are employed, if the employee is employed not in excess of 12 hours

1 a day or 56 hours a week during a period or periods of not more than 14 workweeks in the
2 aggregate in a calendar year during the mining season, as the season is defined by the
3 commissioner;

4 (4) an employee engaged in agriculture;

5 (5) an employee employed in connection with the publication of a weekly,
6 semiweekly, or daily newspaper with a circulation of less than 1,000;

7 (6) a switchboard operator employed in a public telephone exchange that has
8 fewer than 750 stations;

9 (7) an employee of an employer engaged in the business of operating taxicabs;

10 (8) an employee in an otherwise exempted employment or proprietor in a retail
11 or service establishment engaged in handling telegraphic, telephone, or radio messages for the
12 public under an agency or contract arrangement with a telegraph or communications company
13 where the telegraph message or communications revenue of the agency does not exceed \$500 a
14 month;

15 (9) an employee employed as a seaman;

16 (10) an employee employed in planting or tending trees, cruising, or surveying,
17 or bucking, or felling timber, or in preparing or transporting logs or other forestry products to
18 the mill, processing plant, railroad, or other transportation terminal, if the number of employees
19 employed by the employer in the forestry or lumbering operations does not exceed 12;

20 (11) an individual employed as an outside buyer of poultry, eggs, cream, or milk
21 in their raw or natural state;

22 (12) casual employees as may be liberally defined by regulations of the
23 commissioner;

24 (13) an employee of a hospital whose employment includes the provision of
25 medical services;

26 (14) work performed by an employee under a flexible work hour plan if the plan
27 is included as part of a collective bargaining agreement;

28 (15) work performed by an employee under a voluntary flexible work hour plan
29 if

30 (A) the employee and the employer have signed a written agreement and
31 the written agreement has been filed with the department; and

1 (B) the department has issued a certificate approving the plan which states
2 the work is for 40 hours a week and not more than 10 hours a day; for work over 40
3 hours a week or 10 hours a day under a flexible work hour plan not included as part of
4 a collective bargaining agreement, compensation at the rate of one and one-half times the
5 regular rate of pay shall be paid for the overtime;

6 (16) an individual employed as a line haul truck driver for a trip that exceeds 100
7 road miles one way if the compensation system under which the truck driver is paid includes
8 overtime pay for work in excess of 40 hours a week or for more than eight hours a day and the
9 compensation system requires a rate of pay comparable to the rate of pay required by this
10 section; and

11 (17) an individual employed as an executive or administrative employee of
12 a retail or service establishment who is not exempt from AS 23.10.050 - 23.10.150 under
13 AS 23.10.055, and who devotes a portion of the employee's workweek to activities not
14 directly or closely related to the performance of executive or administrative activities, so
15 long as more than 60 percent of the employee's hours worked in the workweek are devoted
16 to bona fide executive or administrative activities and so long as the employee earns at least
17 twice the minimum wage per hour for the first 40 hours of employment each week.

18 * Sec. 2. This Act takes effect July 1, 1992.

Alaska State Legislature

3111 C Street, Suite 150
Anchorage, Alaska 99503
(907) 561-2038

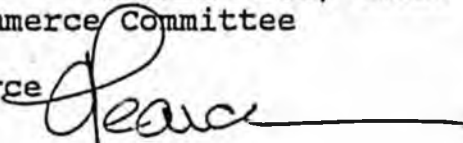


During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-4993

Senator Drue Pearce
District G

MEMORANDUM

TO: Representative Davide Finkelstein, Chair
House Labor & Commerce Committee

FROM: Senator Drue Pearce 

DATE: May 16, 1991

RE: CSSB 262 (L&C), Relating to altering administrative
employees overtime wages

CSSB 262 would make our Alaska Statutes consistent with federal regulations regarding overtime wages for management employees. The bill was introduced at the request of hotel and restaurant owners and operators. It comes as a result of a compromise worked out between employees and management, therefore organized labor has adopted a neutral policy toward the legislation.

Alaska is the only state which requires management employees to spend at least 80% of their time in administrative functions before being exempted from overtime pay requirements. Currently most states match federal regulations which only require 60% of time spent on management duties.

In the Labor & Commerce Committee an extra safeguard was made for low income management to ensure that their income was not further diluted by an inability to collect overtime. In order to qualify under the new percentages of this legislation, a management employee must make two times minimum wage.

These requirements have a great impact on the hotel/restaurant industry, where most management employees also "work the line". It is very difficult, if not impossible to meet this hourly requirement. Consequently, many employers and management employees are working in violation of the current law.

Passing this legislation will alleviate these discrepancies. I urge your individual support.

Thank you.

Alaska State Legislature

SENATOR BETTYE FAHRENKAMP
CHAIRMAN, LEGISLATIVE COUNCIL
CHAIRMAN, ADMINISTRATIVE REGULATION
REVIEW COMMITTEE
119 N. CUSHMAN STREET, SUITE 201
FAIRBANKS, ALASKA 99701
OFFICE (907) 452-4882
HOME (907) 456-2899



Senate

WHILE IN JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811
CAPITOL, ROOM 125
OFFICE (907) 465-3834
HOME (907) 780-6027

May 17, 1991

MEMORANDUM

TO: Chairman David Finkelstein
House Labor and Commerce Committee Members

FROM: Sen. Bettye Fahrenkamp

re: SB 262, Altering Administrative Employees Overtime
Wage Laws.

At the request of the hotel/restaurant operators, I helped draft Senate Bill 262, which would bring Alaska statutes in line with federal regulations regarding overtime wages for administrative employees. SB 262 was introduced by the Senate Labor and Commerce Committee and passed the Senate recently by an 18-0 vote.

This bill is a compromise worked out between organized labor, hotel/restaurant management and the Department of Labor. *Some have characterized SB 262 as an anti-labor bill. I have been given assurances by Mano Frey (President, AFL-CIO) and Harriet Lawler (Business Manager for the hotel workers union) that they do not view it as such.* Rather, SB 262 corrects an inconsistency between state and federal law.

Currently Alaska is the only state which requires management employees to spend at least 80% of their time (most match federal regs. which require only 60%) in administrative functions to be exempted from overtime pay requirements. For many hotel/restaurant managers who help work "on the line" during peak work loads, this is a difficult, if not impossible requirement to meet.

Consequently, many employers and management employees in Alaska are knowingly or unknowingly working in violation of the current law.

For administrative employees benefit, SB 262 mandates that they be paid at least twice the minimum wage if they are to be exempted from overtime laws.

Also, because of the section of statute being amended, employers will now be required to keep track of the hours the administrative employee spends in management versus line functions. Because this function is currently the responsibility of the employee (most of whom are unaware of these requirements,) few are claiming or getting paid for overtime.

For a good number of years I have been a strong advocate for organized labor in this legislature. During that time we have increased the demands upon businesses and their owners one hundred fold--from increased wages to improved work conditions to better workers' compensation coverage. *This proposal is a moderate request by management which gives them some breathing room and does not adversely affect organized labor.*

Given the compromise process which has already occurred, I respectfully request the passage of SB 262 from House Labor and Commerce Committee. Thank you for your consideration and assistance.



ALASKA VISITORS ASSOCIATION

501 West Northern Lights, Suite 201 • Anchorage, Alaska 99503

Tel: (907) 276-6663 • Fax: (907) 258-4036

1991-92
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Regency Cruises

Karen Cowart

Executive Director

May 6, 1992

Senator Shirley Craft
Alaska State Legislature
P.O. Box V (MS 100)
Juneau, Alaska 99801

Dear Senator Craft:

The Alaska Visitors Association Government Relations Committee supports SB 262 which would reduce the percentage of time a management employee would be required to devote to actual management or administrative functions and allow for utilization of the employee for general operation purposes.

The visitor industry must be flexible in both managerial and operational hours due to the travel patterns established nation wide. This bill would allow us that necessary flexibility, would bring Alaska more in line with other states that are our competitors and finally allow Alaska to be consistent with federal guidelines.

We strongly encourage the passage of this bill.

Respectfully,

Bob Berto
President

Johne Binkley
Vice President

cc: Members, House Judiciary Committee
Members, AVA Govt Relations Committee



*Alaska Cabaret, Hotel,
Restaurant & Retailers Association*

U.S. Box 102830 • Anchorage, Alaska 99510
401 K Street • (907) 278-8144 • Fax: (907) 271-8040

May 06, 1991

Alaska Senate Labor & Commerce Committee
Senator Drue Pearce, Chairman
Senator Virginia Collins, Vice-Chairman
Senator Dick Eliason
Senator Rick Halford
Senator Jay Kerttula

Dear Committee Members:

The Alaska Cabaret, Hotel, Restaurant and Retailers Association supports the intent of Senate Bill 262 and urges that this proposed legislation be enacted.

Thank you for your consideration of our position.

Yours truly,

A handwritten signature in cursive script that reads "Carol Wilson".

Carol Wilson
Executive Director

SB 262 MANAGERIAL HOUR COMPARISON

