

HB

420

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

Amie

DEPARTMENT OF LAW

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REPLY TO

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March 20, 1992

MAR 20 1992

Honorable Gene Kubina
Chairman House State Affairs Committee
Alaska House of Representatives
P.O. Box V
Juneau, Alaska 99811

Re: HB 420

Dear Representative Kubina,

Pursuant to the request of members of the House State Affairs Committee, I have prepared a brief outline of my remarks presented before your committee on March 20, 1992. If there is anything more I can do, please let me know.

Very truly yours,

CHARLES E. COLE
ATTORNEY GENERAL

By: Michael J. Stark
Michael J. Stark
Assistant Attorney General

Enclosure

MJS/sf

cc: Lloyd Hames, Commissioner
Paul Fuhs, Governor's Office
Deborah Behr, Dept. of Law

OUTLINE OF ISSUES ADDRESSED BY MICHAEL STARK IN
SUPPORT OF HB 420 AT HOUSE STATE AFFAIRS COMMITTEE ON 3/20/92

I. American Correctional Association (ACA)

- A. Nationally recognized preeminent organization for corrections professionals.
- B. Supports privatization in corrections because of progress made in the field.

II. Prison Overcrowding Implications

A. Cleary v. Smith (State court class action suit)

- 1. Population caps at each facility - frequently exceeded. Need options to avoid court intervention.
- 2. Ruling by court in December 1991 which interpreted existing AS 33.30.031 to prohibit out-of-state placement of prisoners in two respects:

First- prohibits placement in privately run facilities altogether (is permitted in-state for community placement of felons and for confinement of misdemeanants only); and

Second- Read AS 33.30.031 in conjunction with corrections compacts (AS 33.36) to restrict out-of-state placement to member states of Compacts only. Thus, contrary to language in AS 33.30.031, DOC cannot presently contract without out-of-state public entities who are not signatories to Compacts. This includes municipalities and some states.

- B. Other states and federal prison system presently have no additional prison space to take Alaskan prisoners. If DOC needs additional hard-bed space due to prison crowding (short-term or otherwise), only option to spending large capital dollars or releasing prisoners may be contracting with private sector.

III. Fiscal Reality

- U* .zation of out-of-state contracting authority provided HB 420 is not option of preference for DOC, but fiscal realities may leave no options, and authority must be in place if and when emergency occurs.

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MEMORANDUM

March 20, 1992

SUBJECT: Identification of problems in CSHB 420 (STA)

TO: Representative Gene Kubina, Chair
House State Affairs Committee
Attn: Annie

FROM: Theresa L. Bannister *TB*
Legislative Counsel

This memo accompanies the draft CSHB 420 (State Affairs) requested by the committee relating to the confinement and care of prisoners.

As discussed with your staff, the title of the bill has been changed in this draft. Aside from questions of drafting style, this change was made because the previous title did not seem to be accurate. This stems from the fact that the purpose and effect of AS 33.30.031(c) are not clear in the bill. Even though the subsection is nearly identical to the present subsection found in AS 33.30.031(d), the provision is placed in a slightly new context (it references a rewritten (a)), and it is not clear why it is included in the section. The subsection may be intended to be a required term in the contracts with privately operated correctional facilities. Or it may be intended to limit the application of AS 33.30.131. Or it may have another purpose. In any case, it was necessary to broaden the title to accommodate the literal meaning of the subsection. If the subsection is clarified, it may be possible to tighten the title.

In the bill, AS 33.30.031(d) also needs clarification. This subsection is a recital of the current AS 33.30.031(e). In the subsection, the phrase "another state agency" is ambiguous. It is not clear whether it refers to another agency of this state or an agency of another state. The final words of the subsection ("under authority of the law of that jurisdiction") suggest that the phrase means an agency of another state; in this situation, Alaska state agencies wouldn't have a jurisdiction different from that of the state. It would be a good idea to rewrite the phrase or the subsection to clarify which meaning is intended.

With regard to the deletion of sec. 2 (repealing AS 33.36.020 and AS 33.36.070), it would be advisable to add to the beginning of AS 33.30.031(b) of the bill, the phrase,

Representative Gene Kubina
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"Notwithstanding AS 33.36.020 and 33.36.070." This addition would help clarify the relationship of the new AS 33.30.030(b) to those two sections.

Finally, you may wish to harmonize the bill draft with the policy statement at the beginning of AS 33.36.010. That policy statement reads: "It is the policy of the State of Alaska not to transfer a resident inmate outside of the state under this compact if that inmate's continued confinement in Alaska will better facilitate rehabilitation or treatment." That policy appears to be somewhat different from the criteria established in the bill for contracting for out-of-state prison facilities. In AS 33.30.031(a), as rewritten in the bill, the commissioner may contract for an out-of-state prison facility for a prisoner if the commissioner determines that suitable state correctional facilities are not available. The compact policy bases the placement of a prisoner outside the state on the prisoner's rehabilitation or treatment needs. The bill bases the use of out-of-state facilities on whether the state facilities are suitable. Although these two approaches may be reconcilable, it would be a good idea if the bill clearly stated which approach is the bottom line or how the two approaches interact. If I can be of assistance with this matter, please advise.

TLB:pl:mi
92-194.plm

Enclosure

WORK DRAFT by Department of Corrections: HB 420
Date: 3/24/92

CS FOR HOUSE BILL 420 (STATE AFFAIRS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE-SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Sponsors: HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to the confinement and care of prisoners; and providing for an effective date."

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

* Section 1: AS 33.30.031 is repealed and reenacted to read:

Sec. 33.30.031. CONTRACT FOR CONFINEMENT AND CARE OF PRISONERS. (a) If the commissioner determines that suitable state correctional facilities are not available for the detention and confinement of persons held under authority of state law, the commissioner may enter into an agreement with a public or private entity to provide necessary facilities. Correctional facilities provided through agreement with a public or private entity may be in this state or in another state. A prisoner may be confined in a correctional facility in another state only if the commissioner makes the determination required in AS 33.30.061(b). The Commissioner may not enter into an agreement with an entity unable to provide custody, care, and discipline similar to that required by the laws of this state.

(b) Notwithstanding AS 33.36.020 and 33.36.070, the authority granted to the commissioner under (a) of this section is not limited to contracts executed under AS 33.36.

(c) The commissioner may enter into an agreement with the United States, another state, a municipality of this state, or another state agency of this state to provide a correctional facility for the custody, care, and discipline of a person held under authority of the law of that jurisdiction.

Section 2: 33.36.010 is amended to read:

Sec. 33.36.010. COMPACT ENACTED. The Interstate Corrections compact as contained in this section is enacted into law and entered into on behalf of the State of Alaska with any other states legally joining in it in a form substantially as follows. It is the policy of the State of Alaska [NOT] to transfer a [RESIDENT INMATE] prisoner outside the state under this compact [IF THAT INMATE'S CONTINUED CONFINEMENT IN ALASKA WILL BETTER FACILITATE REHABILITATION OR TREATMENT] only if the commissioner determines that rehabilitation or treatment of the prisoner will not be substantially impaired.

Section 3: This Act takes effect immediately under AS 01.10.070 (c).

Municipal Unions and Privatization

Timothy Chandler, Louisiana State University
Peter Feuille, University of Illinois

Does the presence of municipal unions influence local decisions to privatize the delivery of public services? In this article, Timothy Chandler and Peter Feuille present the results of a survey of public works directors. Their findings indicate that unionization does have an impact. For example, cities with unionized sanitation employees are less likely to consider seriously the privatization of sanitation service, and less likely to implement privatization when it is seriously contemplated. Their study also shows that success of such union opposition is not dependent on negotiation or provisions of a bargaining contract, but is rooted in the unions' ability to exert influence away from the bargaining table. An additional factor is the relationship between the managers and the unions; for privatization is more likely to emerge on the agenda and be implemented in cities where labor-management relationships have been adversarial. Finally, Chandler and Feuille find that union opposition to privatization is rational, since unionization declines where contracting has occurred. Offsetting these findings are indications that privatization did not necessarily lead to high unemployment among displaced workers, that some of the private sanitation firms were unionized, and that some cities revert back to public provision of sanitation services.

During the past two decades government officials have become increasingly interested in the transfer of government service delivery to the private sector. This privatization phenomenon has spawned a concomitant growth in academic attention given to this subject. Much of this literature focuses upon comparisons of the costs of public and private service delivery, and many of these analyses have a strong ideological flavor.¹ More recently scholarly attention has encompassed some of the broader societal implications of privatization.² One subject matter that has not received adequate investigation, however, is the role of public employee unions in employer attempts to contract out government services.³

When mentioned in the privatization literature, public sector unions generally are portrayed either as a reason why private service delivery is needed or as an impediment to privatization initiatives.⁴ However, knowing that unions are associated with higher costs and are opposed to privatization tells us nothing about the manner in which the union presence might have contributed to the employer's desire/attempt to privatize, nor does this knowledge tell us anything about how unions may influence the decision to privatize. In the analysis which follows we use some newly collected data from municipal ("city") public works directors around the country to improve our understanding of the union-privatization relationship by looking at city decisions to privatize sanitation collection. Sanitation collection is an especially useful function for examining this relationship due to the widespread use of both public and private sanitation service delivery and the high rate of unionization among sanitation workers.⁵

What Kind of Privatization?

Privatization takes many forms: (1) the sale of government enterprises (as done by the Thatcher government in Britain), (2) the construction of a facility, such as a sewage treatment plant or a highway, by a private firm, (3) the intermittent purchase of specialized (usually professional) services, such as accounting, legal and architectural expertise, when there is inadequate justification to employ this specialized expertise on a full-time basis, (4) the contracting out to private firms of ongoing services formerly delivered by government employees, and so on.

The focus in the American literature dealing with privatization and unions typically is on the contracting out ("contracting") form of privatization. Normally this involves a service currently being provided by government and also being produced (delivered) by government employees which becomes a candidate for delivery by a private firm.⁶ When a service is contracted, the service is still provided (controlled) by government, governments usually arranges for recipients of the service not to have to pay a user fee, and government selects the producer that will deliver the service. Prime candidates for contracting by local government include food service, custodial service, school bus service, data processing, landscape maintenance, and sanitation collection.⁷

There appear to be four characteristics of the services most frequently contracted by local governments. First, these services usually are prosaic and low-profile services for which there is no compelling reason that they be delivered via public production. For instance, school districts often contract out school bus, custodial, or cafeteria services, but they almost never contract out the teaching function. Second, the fact that most contracted services are not uniquely public means that there usually are a number of private sector firms available to supply the service on a contracted basis. Third, most of these contracted services are delivered through relatively low-skill jobs, and thus it is usually not difficult to find private sector replacements for the public employees displaced when the service is contracted out. Fourth, contracted services generally have easily monitored outputs (e.g., number of lunches served, number of pupils bused to school, etc.).

These four characteristics apply to sanitation collection services: sanitation collection is hardly a uniquely public service, as judged by the hundreds of cities which rely upon private firms to collect refuse; there usually are many private sanitation collection firms in most localities; refuse collection jobs do not require a great deal of skill; and sanitation collection is an activity that can be easily monitored. With these characteristics, it is not surprising that sanitation collection is a frequent candidate for contracting.

The Decision to Contract Out

The conditions which led to the increase in popularity for privatization in general and contracting in particular are well known. Many cities started experiencing fiscal distress in the 1970s. Particularly hard hit were cities in Rust Belt states, where the downward fortunes of declining industries resulted in the loss of facilities and jobs and in the subsequent erosion of the local tax base. During this same period the public's acceptance of tax increases to finance expanded services plummeted and was replaced with increasing public pressure to curtail the seemingly ever-rising cost of government. The voters' adoption of Proposition 13 in California (in 1978) and Proposition 2½ in Massachusetts (in 1980) are the two most visible tax limitation measures passed as a result of this change in public sentiment.⁸

The *union's ability to function as an organized political interest group enables the affected employees to effectively...[oppose] contracting proposals.*

These factors thrust the issue of cost reduction onto the governmental agenda. The primary rationale for contracting appears to be cost savings rather than increases in the quality of service or some other factor. Indeed, previous research has found substantial cost savings across different contracted services.⁹ In sanitation collection, for example, prior research found that contracting decreases the cost of sanitation services by 29 to 37 percent.¹⁰ Cost savings of this magnitude make contracting an attractive option to cost-conscious voters and the public officials who hope to capitalize politically on these sentiments.

In the contracting policy arena, considerable attention has been given to the cost-increasing aspects of public employee unions and the incentives these increased costs provide to government officials to contract out. This attention usually assumes a monopoly view of unions.¹¹ That is, the union's self-interest activities (e.g., bargaining, striking, lobbying) are said to lead to increased labor costs, increased service costs, and the occasional disruption of government services, all of which are looked upon unfavorably by public employers. These effects are well documented.¹²

However, contracting adversely affects the public employees who had been delivering the now-contracted service. When contracting is implemented, the options for these displaced employees usually range from transfer to another government department (sometimes with reduction in pay or seniority) to being hired by the private contractor (usually with lower wages and fringe benefits) to being completely "outplaced" into the labor market. Concern over this displacement effect, especially among women and minorities who benefit significantly from public sector employment, has been the major reason for employee and union opposition to contracting out.¹³ To the extent that union resources can be used to mobilize opposition to contracting, unions of public employees are in a position to oppose contracting proposals and to seek the maintenance of public delivery of services.

This tension between cost savings and job loss suggests that the implementation of contracting out depends upon the relative political power of taxpayers eager to reduce costs versus public employees eager to protect jobs. When public employees are organized into a union, the union may enable the employees to communicate their contracting opposition preferences to policy makers in a way that the unorganized taxpayers cannot.¹⁴ When this organizational advantage is combined with the fact that each taxpayer's economic stake in decisions regarding the provision of a single public service is trivial compared to that of public employees producing the

service, taxpayers may remain "rationally ignorant" of the costs associated with delivering a single service.¹⁵ All else equal, this difference in organization and economic incentives should enable the organized producers of a public service (public employees) to influence policy makers in the direction of providing economic rents to public employees even if these rents result in increased costs to taxpayers.

However, as noted above, in the post-1975 period all else was not equal. The fiscal distress confronting many cities resulted in growing public pressure to restrict the increasing costs of public services. This pressure often substantially increased the political attractiveness of contracting to the public officials who made the public versus private production decisions. When this happened, rent-seeking interest groups (such as public employee unions) often experienced a decrease in political influence when municipal decisions were being made which affected the cost of governmental services.

As a result, the relationship between public employee unions and contracting decisions encompasses two conflicting dimensions. The cost-increasing effects of unions increase the public employer's incentive to contract the expensive services, but the union's ability to function as an organized political interest group enables the affected employees to effectively express their opposition to contracting proposals. These conflicting pressures make it difficult to hypothesize in advance the net effect of public employee unions on contracting decisions. In the next section, however, we analyze some recently collected data which will enable us to better understand the relationship between sanitation unions and city contracting decisions regarding sanitation services.

As indicated in the introduction, city sanitation collection is an excellent arena for analyzing contracting decisions. During the past 25 or so years there were three noteworthy changes in this industry. One was the widespread emergence of unionization. Another was technological change in the form of larger and more automated refuse collection trucks.¹⁶ The third was the widespread adoption of contract-

A city's sanitation strike history appears to play no detectable role in determining whether cities would adopt or reject contracting.

ing.¹⁷ Together these latter two changes contributed to significant declines in refuse collection employment and in the union presence where contracting occurred. The magnitude of these employment and unionization changes can be seen in the following figures. Between 1975 and 1983, proportional municipal sanitation employment declined by half, from 1.41 to .70 full-time paid employees per 1,000 population, and the unionization rate of publicly employed full-time sanitation personnel fell from 50 percent in 1972 to 40 percent in 1980.¹⁸ This background makes sanitation collection an especially fertile field in which to examine the relationship between contracting and public unions.

Findings

Labor Relations Practices

Of the 1,256 cities which provided information on the union status of their sanitation employees (see grey box), 498 (40 percent) reported the presence of a public union of sanitation employees at some point over the 1973-1988 period and 449 (36 percent) reported having a collective bargaining agreement with the union. Regarding location, the heavy majority (78 percent) of these union-management relationships existed in states with public sector collective bargaining legislation.¹⁹ The average 1986 populations of the union and nonunion cities were 87,295 and 43,601, respectively.²⁰ Not controlling for the many other factors affecting salary levels, on average cities having unionized sanitation workers paid considerably higher 1987 salaries (\$19,440) than municipalities which did not have unionized sanitation workers

Research Design

In November-December 1989 we surveyed the public works director in every U.S. municipality ("city") having 10,000 or more population ($N = 2,758$) with a mailed questionnaire which asked various questions about the provision and production of sanitation collection services during the 1973-1988 period, the unionized status of sanitation employees, and the nature of the sanitation union-management relationship. The period 1973-1988 was selected because of the availability of pertinent non-survey data related to municipal government generally and municipal sanitation collection specifically.

We received a total of 1,541 responses (a 56 percent response rate). Two hundred fourteen of these respondents reported that their cities relied upon purely private methods of sanitation collection (i.e., private provision and private production of the service). Because this study was designed to examine sanitation contracting out and labor relations in cities where contracting is at least a theoretical possibility, and because cities with no involvement in sanitation collection do not fit this description, we have excluded these 214 responses from our analysis.

Of the remaining 1,327 responding contracting-eligible cities, not every respondent was able to answer each question. Some questions asked for information on events which occurred as far back as 1973 or even earlier, making it difficult for some respondents to provide some of the requested information. This reduced the number of usable responses for some of the questions.

Table 1
Cities That Considered and Did Not Consider Contracting

Variables ^a	Never Considered Contracting Out		Considered Contracting Out		T-Value
	Mean (N)	SD	Mean (N)	SD	
Union ^b	.456 (394)	.020	.342 (657)	.018	4.13*
Union/Mgmt. Relations	2.206 (267)	.988	2.614 (218)	1.020	-4.47*
Strike ^b	.196 (270)	.024	.259 (220)	.029	-1.70*

* $p < .10$
* $p < .01$

a. "Union" measures whether or not a public sanitation union was present in the municipality at some time over the 1973-88 period (1 if union was present and 0 otherwise); "Union/Mgmt. Relations" measures the average quality of union/mgmt. relations within the municipality (measured on a 5-point scale where 1 = highly cooperative, 3 = neutral, 5 = highly adversarial); "Strike" measures whether or not the unionized public sanitation workers had engaged in a strike at any time over the 1973-1988 period (1 if strike had occurred and 0 otherwise).

b. Test is difference between proportions test; all other tests are difference between means tests.

(\$16,239).²¹ A large surge in unionization activity among sanitation employees covered in this survey occurred between 1965 and 1975, when 56 percent of the 499 reported sanitation unions were established. This is also the same period when a majority of responding cities first signed a collective bargaining agreement with the sanitation union.

Of the 449 cities which reported having a collective bargaining agreement with their sanitation union, 438 provided information on the manner in which contracting is addressed in their collective bargaining agreement. A heavy majority (76 percent) of these cities indicated either that (1) the contract contained no language regarding contracting out (52 percent) or (2) the contract stated that contracting out was a management right (24 percent). In this group of 438 cities, only four percent (N = 16) reported that their sanitation union contract contained language prohibiting contracting out. The remaining 20 percent reported either that (1) contracting out is permissible but there must be consultation with the union prior to contracting out (17 percent) or (2) contracting out is handled in the collective bargaining agreement in some "other" manner (three percent). As a result, most of the unionized cities in this sample were not contractually barred from contracting out their sanitation services.

On average the unionized cities reported moderately good relations with their sanitation unions (M = 2.59, N = 487, where 1 = highly cooperative relations, 3 = neutral relations, and 5 = highly adversarial relations). Perhaps one reason things were not better between the cities and the unions is

that 22 percent (N = 110) of the unionized cities experienced a sanitation strike at some point during the 1973-1988 period. In fact, cities which experienced a sanitation strike reported having significantly worse relations with their sanitation union (M = 2.62) than cities which had not experienced a strike (M = 2.33, $p < .01$).

Considered Contracting Out

We asked respondents questions about three discrete steps in the contracting process: (1) whether they (i.e., their employing city) "seriously considered" contracting out, (2) whether they accepted bids from outside producers of sanitation services, and (3) whether they actually contracted some or all of the sanitation collection service. Among the 1,327 contracting eligible responding cities, 716 (54 percent) reported that they had seriously considered contracting out sanitation collection services at some point during our 1973-1988 survey period, 558 (42 percent) reported that they had accepted bids from potential producers of sanitation collection services (these 558 cities reported an average of 3.2 bids per city), and 558 cities (42 percent) reported that they had contracted sanitation services at some point in the 1973-1988 period.²²

Table 1 presents some differences between those cities which reported seriously considering contracting out and those which did not (and which also reported union status information). The first row of figures indicates that cities which considered contracting out were significantly less likely to be unionized (34 percent) than those cities which had never considered contracting out (46 percent). The second row of figures indicates that, among the cities with unionized sanitation workers, cities which considered contracting out reported significantly more adversarial relations with their sanitation union than cities which did not consider contracting out. The third row of figures bolsters the second row, for it reports that unionized cities which considered contracting out were significantly more likely to have experienced a sanitation workers strike (26 percent) than unionized cities which did not consider contracting out (20 percent).

In short, the Table 1 results indicate that unionized cities were less likely to consider contracting than nonunion cities, perhaps because anticipated union opposition in the unionized cities prevented contracting from being placed on the policy agenda. This union opposition was confirmed by the respondents' characterizations of the degree of employee opposition to contracting proposals in union and nonunion cities. Among the 597 cities which provided the necessary responses, the reported level of employee opposition to contracting was significantly higher in the 218 cities where the sanitation workers were unionized (M = 4.26, where 1 = strongly supportive, 3 = neutral, and 5 = strongly opposed) than in the 379 cities where they were not (M = 2.92, $p < .01$). In addition, within the unionized cities, those with more adversarial relations with the sanitation union and those which had experienced a sanitation strike were more likely to consider contracting than those with more cooperative relations with the union.

Actually Contracted Out

Of the 558 cities that contracted out sanitation collection at some point over the 1973-1988 period, 484 cities provided information on when contracting was first implemented. Of the 484 respondents, 42 percent implemented contracting prior to 1970. These responses indicate that sanitation contracting often preceded the late 1970s/early 1980s taxpayer revolt.

Table 2 reports results for two groups of cities, those which seriously considered contracting but did not do so (N = 193), and those which actually contracted out at some point during the survey period (N = 523). The first two rows in this table indicate that cities which considered but did not contract reported significantly higher opposition to contracting from both city employees and city residents than did cities which went ahead and contracted. In addition, the third row indicates that cities which considered but did not contract reported significantly higher resident satisfaction with the city's sanitation service than did cities which went ahead and contracted (though both groups of cities reported fairly high levels of resident satisfaction prior to any contracting debate).

The final three rows of Table 2 provide some insights into the sanitation union's role in contracting decisions. The first of these rows indicates that, at the time that contracting was under consideration, cities which considered but did not contract were twice as likely to be unionized (53 percent) as those cities which contracted (27 percent). This difference strongly suggests that the presence of a sanitation union significantly reduces the likelihood that a city will implement a sanitation contracting proposal.

Looking only at unionized cities, those cities which contracted reported significantly more adversarial relations with their sanitation union than did those cities which considered but did not contract. However, the likelihood of a sanitation strike having occurred in these two groups of unionized cities was almost identical (at about 26 percent), and thus the city's sanitation strike history appears to have played no detectable role in determining whether these "considering" cities would adopt or reject contracting.

Contracting Practices

Cities that contract sanitation collection tend to contract the entire service. We asked the 558 respondents who contracted if they continued to produce any part of the sanitation service. Of the 510 contracting cities who responded, only 97 (19 percent) indicated that the city continued to produce any part of the sanitation service. Among these 97 cities, 36 (37 percent) reported the presence of a city sanitation workers' union.

Contracting cities reported, on average, that only nine percent (on an unweighted basis) of the city's former sanitation collection employees became unemployed as a result of contracting out.¹³ This low percentage reflects, in part, the fact that 25 percent of the contracting cities had provisions in their contracting out agreements which required the private

Table 2
Cities That Considered and Which Implemented Contracting

Variables ^a	Never Considered Contracting Out		Considered Contracting Out		T-Value
	Mean (N)	SD	Mean (N)	SD	
Employee Opposition	4.329 (179)	1.015	2.968 (449)	1.334	12.30*
Resident Opposition	3.572 (173)	1.024	2.514 (461)	.917	12.52*
Res. Satis. w/ Munic. Coll.	1.938 (178)	1.074	2.409 (396)	1.072	-4.87*
Union ^b	.526 (190)	.036	.267 (467)	.020	6.16*
Union/Mgmt. Relations	2.398 (98)	.992	2.791 (120)	1.012	-2.58*
Strike ^b	.262 (99)	.044	.256 (121)	.039	.10

* p < .01

a. "Employee Opposition" measures the level of municipal employee opposition toward the proposal to contract out sanitation services (measured on a 5 point scale where 1 = strongly supportive, 3 = neutral, 5 = strongly opposed); "Resident Opposition" measures the level of municipal resident opposition toward the proposal to contract out sanitation services (measured on a 5 point scale where 1 = strongly supportive, 3 = neutral, 5 = strongly opposed); "Res. Satis. w/ Munic. Coll." measures the average level of citizen satisfaction with municipal sanitation collection services prior to the proposal to contract out such services (measured on a 5 point scale where 1 = very satisfied, 3 = neutral, 5 = very dissatisfied); "Union" measures whether or not a public sanitation union was present in the municipality at some time over the 1973-1988 period (1 if union was present and 0 otherwise); "Union/Mgmt. Relations" measures the average quality of union/mgmt. relations within the municipality (measured on a 5 point scale where 1 = highly cooperative, 3 = neutral, 5 = highly adversarial); "Strike" measures whether or not the unionized public sanitation workers had engaged in a strike at any time over the 1973-1988 period (1 if strike had occurred and 0 otherwise).

b. Test is difference between proportions test, all other tests are difference between means tests.

contractors to hire sanitation workers employed by the city. In addition, although this information was not requested, several cities reported that employees displaced by contracting were transferred to other city departments and thus remained on the public payroll.

Of the 435 contracting cities that provided information on the union status of the contractor's employees, 127 (29 percent) indicated that these private sanitation employees were unionized. This 29 percent (unweighted) unionization rate is below the 40 percent unionization rate reported by cities for publicly employed sanitation employees, but it is higher than the 14 percent unionization rate among all employed private sector nonagricultural wage and salary workers reported by

the U.S. Bureau of Labor Statistics for 1989.²⁴ In addition, the contracting cities reported that 20 (16 percent) of the unionized private contractors experienced a strike by their employees at some point during the survey period. These results suggest that contracting reduces but definitely does not eliminate sanitation unionization and strikes compared to when the service is publicly produced.

We confirmed the decreased incidence of sanitation unionization under contracting with a supplementary analysis. As mentioned previously, 498 (40 percent) of the responding cities indicated having unionized public sanitation employees at some point over the 1973-1988 period. Our survey results indicate that 133 of these unionized cities adopted sanitation contracting. Of these 133, 36 cities continued to produce some sanitation services with their own unionized employees, and in 97 cities (19 percent of the 498 cities) the entire sanitation collection function was contracted and the public sanitation union-management relationship dissolved.²⁵ Nonetheless, the percentage of cities having unionized public sanitation workers was actually higher than 40 percent at the end of the survey period due to the growth of contracting among nonunion cities (which removed them from the calculation of percent unionized among cities which produce their own sanitation service). The survey results indicate that a public sanitation union was present in 401 (45 percent) of the 895 responding cities which publicly produced some sanitation services at the end of the survey period.

Interestingly, our results also indicate that contracting is not completely a one-way street. Among the contracting cities, 29 (five percent) reported that they terminated the contracting arrangement in favor of public production at some point during the survey period. We did not ask why they did this, but this reported "contracting in" is consistent with similar results reported elsewhere.²⁶

Conclusions and Implications

Some of these results might be criticized as coming from the respondents' potentially hazy memories of what did and did not happen in various local contracting debates. There is no question that an intensive case study methodology would have produced more complete data for each city, and there is also no question that using such an approach in 1,327 cities would have been prohibitively costly. In contrast, our retrospective questionnaire methodology has allowed us to collect considerable pertinent information from a large and informed group of respondents at a quite reasonable cost. Consequently, we believe that these results enable us to better understand the relationship between unions and city sanitation contracting than would have occurred using a more intensive focus on a much smaller number of cities.

This survey supports four conclusions. First, our data indicate that the presence of a union of city sanitation workers reduces the probability that a city will seriously consider contracting out, and the union's presence also reduces the proba-

bility that a city which is considering contracting will actually go ahead and implement a contracting arrangement. Evidently the presence of a city sanitation union provides an institutional vehicle through which sanitation employees effectively may express their contracting opposition to city officials, which in turn results in job protection benefits that their nonunion peers do not receive.

Second, because few of the sanitation union contracts in these cities contain language which prohibits contracting out, and because these respondents reported that the presence of a union is associated with a high level of expressed employee opposition to contracting, our results suggest that the reduced incidence of contracting in unionized cities is due in large part to union-organized opposition to contracting which extends beyond the words agreed to at the contract negotiation table.

Third, our results also indicate that the unions' ability to prevent contracting depends in part on the nature of their relationship with the employer. Among unionized cities, cities that reported an adversarial relationship with their sanitation union were more likely to have seriously considered contracting and to have implemented contracting than cities which reported a cooperative relationship. In other words, the presence of a sanitation union reduces the likelihood of contracting, but among the unionized cities (i.e., controlling for the union presence) a confrontational union-management relationship appears more likely to contribute to contracting than a cooperative relationship. This finding may suggest to sanitation union officials that constructive relations with city management might have some definite job protection payoffs over the long term.

Fourth, the implementation of contracting reduces the incidence of sanitation unionization among cities by a significant amount. In other words, union opposition to contracting is quite rational, for contracting often spells the elimination of the union in the contracted workplace. At the same time, however, we found that many of the public sanitation services became privately unionized sanitation services after contracting was established, and that strikes by private sanitation employees occurred from time to time. In short, contracting hardly eliminates unions from the sanitation collection function.

We did not ask respondents to tell us anything about the reasons why their cities either considered or implemented sanitation contracting (or did not do so). Therefore, the results presented here cannot be used to conclude that sanitation contracting was on the public policy agenda because of labor relations considerations. However, these results indicate that the presence and nature of the sanitation union-management relationship played a very important role in whether or not a city considered or adopted sanitation contracting.

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Notes

The authors would like to thank the Governmental Refuse Collection and Disposal Association, the Institute of Labor and Industrial Relations and the Research Board at the University of Illinois for generously supporting this research, and Penni Falkenburg for some excellent research assistance.

1. Much of this literature is reviewed in David R. Morgan and Robert E. England, "The Two Faces of Privatization," *Public Administration Review*, vol. 48 (November/December 1988), pp. 979-987.
2. *Ibid.*, see also Ronald C. Moe, "Exploring the Limits of Privatization," *Public Administration Review*, vol. 47 (November/December 1987), pp. 453-460; Harold J. Sullivan, "Privatization of Public Services: A Growing Threat to Constitutional Rights," *Public Administration Review*, vol. 47 (November/December 1987), pp. 461-471; National Commission for Employment Policy, *Privatization and Public Employees: The Impact of City and County Contracting Out on Government Workers*, Research Report No. 88-07, May 1988; National Commission for Employment Policy, *The Long Term Implications of Privatization: Evidence from Selected U.S. Cities and Counties*, Research Report No. 89-04, March 1989.
3. For a notable exception, see David Lewin, "Public Employee Unionism and Labor Relations in the 1980s: An Analysis of Transformation," in Seymour Martin Lipset, ed., *Unions in Transition: Emerging the Second Century* (San Francisco: Institute for Contemporary Studies Press, 1986), pp. 241-264.
4. These views of the relationship between public sector unions and privatization can be found in James T. Bennett and Thomas J. DiIorio, "Public Employee Unions, Privatization, and the New Federalism," *Government Union Review*, vol. 3 (Winter 1983), pp. 59-73; James Ferns and Elizabeth Graddy, "Contracting Out: For What With Whom?" *Public Administration Review*, vol. 46 (July/August 1986), pp. 332-344; Jeffrey A. Dubin and Peter Navarro, "How Markets for Impure Public Goods Organize: The Case of Household Refuse Collection," *Journal of Law, Economics, and Organization*, vol. 4 (Fall 1988), pp. 217-241; Irwin T. David, "Privatization in America," *The Municipal Year Book, 1988* (Washington: International City Managers Association, 1988), pp. 45-55; James M. Ferns, "The Decision to Contract Out: An Empirical Analysis," *Urban Affairs Quarterly*, vol. 22 (December 1986), pp. 299-311; and Robert A. McGuire, Robert L. Oshafick, and T. Norman Van Coil, "The Determinants of the Choice Between Public and Private Production of a Publicly Funded Service," *Public Choice*, vol. 54 (1987), pp. 211-230.
5. Lewin, 1986.
6. An especially useful analysis which differentiates between privatization of service provision (leading to provide/control the service) and privatization of service production (actually delivering the service to users) can be found in Ted Koldme, "The Two Different Concepts of Privatization," *Public Administration Review*, vol. 46 (July/August 1986), pp. 285-291.
7. A few studies which have examined the extent to which contracting occurs for various services are Carl P. Valente and Lydia D. MacKenzie, *Providing Local Services: Examining Alternative Delivery Approaches* (Washington: International City Managers Association, 1984); Irwin T. David, 1988; and Elaine Morley, "Patterns in the Use of Alternative Service Delivery Approaches," *The Municipal Year Book, 1989* (Washington: International City Managers Association, 1989), pp. 33-34.
8. For a discussion of state revenue limitations in the context of the "taxpayer revolt" see Patricia S. Fiorinano, "Revenue Raising Limitations on Local Government: A Focus on Alternative Responses," *Public Administration Review*, vol. 41 (January 1981), pp. 122-131.
9. A study of public-private cost differences of eight services in the Los Angeles Standard Consolidated Area found cost savings ranging from 37 percent for solid waste disposal to 96 percent for asphalt overlay construction (significant cost savings were observed in all but one of the service categories); see Barbara J. Stevens, "Comparing Public- and Private-Sector Productive Efficiency: An Analysis of Eight Activities," *National Productivity Review*, vol. 3 (Autumn 1984), pp. 395-406; for a summary of other studies on public-private cost differences, see National Commission for Employment Policy, 1988, pp. 9-10.
10. Emmanuel S. Savas, *The Organization and Efficiency of Solid Waste Collection* (Lexington, MA: Lexington Books, 1977); Emmanuel S. Savas, "Public v. Private Refuse Collection: A Critical Review of the Evidence," *Journal of Urban Analysis*, vol. 6 (1979), pp. 1-13; Barbara J. Stevens, "Scale, Market Structure, and the Cost of Refuse Collection," *Review of Economics and Statistics*, vol. 60 (August 1978), pp. 436-448.
11. The monopoly view of unions is presented in Richard B. Freeman and James L. Medoff, *What Do Unions Do?* (New York: Basic Books, 1984) and in Barry T. Hirsch and John T. Addison, *The Economic Analysis of Unions: New Approaches and Evidence* (Boston: Allen & Unwin, 1986).
12. H. Gregg Lewis, "Union/Nonunion Wage Gaps in the Public Sector," in Richard B. Freeman and Casey Ichimowski, eds., *When Public Sector Workers Unionize* (Chicago: The University of Chicago Press, 1988), pp. 159-193; Jeffrey S. Zax, "Wages, Nonwage Compensation, and Municipal Unions," *Industrial Relations*, vol. 27 (Fall 1988), pp. 301-317; Peter Feuille and John Thomas Delaney, "Collective Bargaining, Interest Arbitration, and Police Salaries," *Industrial and Labor Relations Review*, vol. 39 (January 1986), pp. 228-240; and U.S. Bureau of Labor Statistics, *Wage Stoppages in Government, 1980*, Bulletin 2110, 1981.
13. For a discussion of arguments put forth by opponents of privatization see Angus Paul, "Privatization Sparks Vigorous but Inconclusive Debate at Political Science Meeting," *The Chronicle of Higher Education*, 16 September 1987, pp. A5-A6; Robert J. Poole, "Objections to Privatization," *Policy Review* (Spring 1983), pp. 113-119; American Federation of State, County and Municipal Employees (AFSCME), *Passing the Buck: The Contracting Out of Public Services* (Washington: AFSCME, 1983); John D. Marzaban, *Government for Sale: Contracting Out The New Partnership* (Washington: AFSCME, 1977); and the articles in "Privatization and Contracting Out," *Labor Research Review* 23, vol. 9 (Spring 1990).
14. In particular, the presence of the union reduces each employee's cost of acquiring information about service delivery alternatives, bonding together with similarly situated employees, and communicating these collective preferences to public officials. The individual taxpayer typically has no similar organization to perform these same cost reduction functions. The role of public sector unions as political actors is cited in Harry Wellington and Ralph K. Winter, Jr., *The Unions and the Cities* (Washington: Brookings Institution, 1971).
15. Anthony Downs, *An Economic Theory of Democracy* (New York: Harper and Row, 1957).
16. The most important technological change in sanitation collection has been the introduction of trucks with semi-automated and automated collection systems; see David Lewin, "Technological Change in the Public Sector: The Case of Sanitation Service," in David B. Collier and William M. G. Marshall, eds., *Emerging Patterns of Labor Relations* (New York: Plenum, 1987), pp. 381-389.

17. Irwin T. David, 1988, and Elaine Morley, 1989.
18. Lewin, 1986, p. 252.
19. Of the 498 municipalities having unionized employees, 192 (39 percent) were located in the Northeast, 140 (28 percent) were located in the Upper Midwest, and 56 (11 percent) were located in the Far West. For research which documents the close connection between public sector unionization and protective legislation see Gregory Saltzman, "Bargaining Laws as a Cause and Consequence of Teacher Unionism," *Industrial and Labor Relations Review*, vol. 38 (April 1985), pp. 335-351, and Casey Ichniowski, "Public Sector Union Growth and Bargaining Laws: A Proportional Hazards Approach with Time-Varying Treatments," in Richard B. Greeman and Casey Ichniowski, eds., *From Public Sector Workers Unionize* (Chicago: The University of Chicago Press, 1988), pp. 19-40.
20. The population figures are from Victor S. Debanis, "Profiles of Individual Cities and Counties," *The Municipal Year Book, 1988* (Washington: International City Management Association, 1988), pp. 197-257.
21. The average salaries for union and nonunion cities were obtained using data from Gerald Hoerner, "Police, Fire, and Refuse Collection, 1987," *The Municipal Year Book, 1988* (Washington: International City Management Association, 1988), pp. 137-194.
22. Despite appearances, not every city that accepted contracting bids decided to contract. The number of cities that accepted contracting bids only coincidentally equals the number of cities that contracted due to missing data on these two questions. Of the 558 cities which accepted bids, 463 (83 percent) reported that they actually contracted sanitation services.
23. This low percentage is similar to the National Commission for Employment Policy's (1988) finding that "only about 5 to 10 percent of public employees affected by contracting out are laid-off as a result of this alternative delivery approach" (p. 2).
24. U.S. Bureau of Labor Statistics (BLS), *Employment and Earnings*, vol. 37 (January 1990), p. 232. This 14 percent figure refers to employees "represented by a union" and thus includes more than just union members. In addition, this BLS figure is 14 percent of employees, while the percent unionized figures in our study refer to percentages of responding cities.
25. Four hundred ten contracting cities provided information on both the unionized status of public employees prior to contracting and the unionized status of the private contractor's employees. These results indicate that 35 percent (41 of 118) of the cities having unionized public sanitation employees contracted with private firms having unionized employees. Interestingly, 25 percent (72 of 292) of the cities with nonunion public sanitation employees contracted with unionized private firms, which resulted in a union presence where none previously existed.
26. Annie Millar, "Residential Solid Waste Collection," *The Municipal Year Book, 1983* (Washington: International City Management Association, 1983), pp. 191-198.

TESTIMONY PRESENTED BEFORE
THE SENATE JUDICIARY COMMITTEE OF THE
ILLINOIS STATE LEGISLATURE

ON PRISON PRIVATIZATION

OCTOBER 18, 1989

BY

STEVE CULEN, EXECUTIVE DIRECTOR

AFSCME COUNCIL 31

As an International Union that represents over 50,000 corrections employees, (nearly 10,000 of them in Illinois), AFSCME's position on the contracting out of prisons will surprise no one in this room. We oppose it. The proponents of prison privatization claim it is a positive alternative to overcrowded prisons and high operating costs. We disagree. Privatization raises more questions--legal, ethical, and fiscal--than it resolves. However severe the problems in corrections may be, government cannot relinquish either the legal responsibility or liability for the incarceration of inmates.

Despite the efforts by proponents of prison privatization to herald it as the wave of the future, the operation of corrections systems in the United States remains overwhelmingly in the hands of public management.

Of the more than 700 state and federal prisons in the United States, less than 1% are under contract to private firms. That percentage would be even smaller if we included city and county jails, of which only twelve in the entire country are under contract to private firms.

We are not the only organization that opposes the contracting out of corrections. Groups like the National Sheriffs' Association, the National Association of Criminal Justice Planners, and the John Howard Foundation also oppose it. Two other prominent organizations--the American Bar Association and the National Association of Attorneys General--have expressed severe reservations about it, urging further study of the issue.

Several states other than Illinois have considered the privatization of corrections, including Pennsylvania,

Virginia, Missouri and Maryland. These states have one thing in common--they decided against it.

The state of Pennsylvania has indefinitely extended its ban on the operation of private prisons. Its experience is particularly instructive.

In 1986, the Pennsylvania State Legislature passed the Private Prison Moratorium and Study Act, which imposed a moratorium on the operation of private prisons and created a task force known as the Private Prison Task Force to study the issue. The Task Force held a series of public hearings across the state; examined prison privatization elsewhere; and considered its cost effectiveness. The result? The Task Force recommended the indefinite extension of the moratorium.

Two factors were instrumental in this recommendation.

The Task Force found little merit to the cost effectiveness arguments for prison privatization. On the other hand, it found the legal arguments against contracting out very persuasive. The contracting out of corrections, the Report concluded, "does not relieve the state or local government from liability of civil rights or tort actions brought by inmates."

Even prior to the issue of the Pennsylvania Task Force Report, other evidence questioned the effectiveness of the contracting out of corrections. In 1985, the National Institute of Corrections did a Study of the Eckerd Foundation Youth Development Center in Okeechobee, Florida. After comparing it to a state run facility, the study concluded that the Okeechobee operation "has not realized cost savings," and that the Eckerd Foundation's program

"reflects no significant increase in quality." But the Report did not stop there. In general, it concluded, "this example of the private sector in corrections reveals no strong support for this management alternative."

As a Union, we have cautioned that the contracting out of corrections will mean lower wage rates, reduced employee benefits, and reduced training - all of which in turn will lead to higher employee turnover. The NIC study identified the high rate of employee turnover as a major problem at the Eckerd facility - much of this attributable to 16-hour work days with no overtime pay (practices in violation of the Federal Fair Labor Standards Act).

More recent evidence indicates other instances of this problem. The Corrections Corporation of America, considered to be the leader in the field of private corrections,

believes that the road to profits leads through reductions in employee wages and benefits. At its Silverdale facility in Tennessee, it is reported that CCA has reduced most employee benefits and completely taken away retirement. The result--turnover has been 160%.

Generally speaking, arguments for the costs effectiveness of privatization are based on too narrow and unrepresentative a sample. The number and type of detention centers under private control is by no means random with respect to either facilities or inmates. Most private detention centers are low-security operations for juvenile offenders or foreign nationals who have committed no crime aside from unauthorized border crossings. Private firms' performance in these situations gives little valid evidence as to how they would handle higher security operations.

Furthermore, the only actual private prisons in operation are two minimum security facilities. Public minimum security prisons have operating costs about 20% below those of medium and maximum security facilities; therefore comparing the cost performance of the two private prisons with all prisons would be seriously misleading.

Cost comparisons may be yet more off the mark if private prisons are able to determine who they will accept. The Marion Adjustment Center, run by the U.S. Corrections Corporation, costs Kentucky \$25 per inmate per day, which is about in the middle of the \$18-\$31 range of publicly-run prisons. But inmates are screened for medical and behavioral problems before they are assigned to Marion. As the administrative director of Kentucky's corrections system has explained, "We don't want to overload them with problem cases. We tend to send them the best in the bunch."

There is a much broader context within which we must view the contracting out of corrections. Responsible government requires improving the quality of public management and public service, not the selling off of government.

If there are problems in the system it is our government's responsibility to address them, not try to palm them off onto somebody else. Illinois prisons are overcrowded, correctional officers are overworked and overstressed, and the courts are demanding that solutions be found. It is imperative that we move forward to do so based on sound principles of criminal justice, not on the phoney panacea of privatization.

DEPARTMENT OF CORRECTIONS
POSITION PAPER

BILL: HB 420 (An Act expanding and clarifying the authority of the Department of Corrections to contract for facilities for the confinement and care of prisoners; and providing for an effective date.)


POSITION: SUPPORT

The bill would allow the Department to contract with private entities, in or outside Alaska, for the confinement of prisoners. Current statutes allow the Department to contract with private entities in Alaska for the care of misdemeanants and certain prisoners involved in furlough programs, and to contract with public entities for confinement of all types prisoners.

Alaska's prison system is at near-capacity. In the event of crisis overcrowding, loss of current out-of-state contracts, natural disasters requiring prison evacuation, or budget reductions requiring closure of current facilities, the Department must have available alternatives to house prisoners. While there is a shortage of publicly operated prison space nationwide, there are privately operated prisons which can offer lower cost housing and have space available for Alaskan prisoners. This bill would allow the Department to take advantage of these prisons.

The Department is exploring alternatives to incarceration in Alaska. Use of community residential centers, electronic monitoring, day reporting centers, and other alternative sanctions may provide safe, effective alternatives for some prisoners. The Department is committed to full utilization of local, lower cost placements and to minimizing the risk to public safety in expanding its use of these alternatives. However, there are prisoners who cannot be placed in community settings without posing an undue risk to public safety. The Department needs to have options available to address the needs of these prisoners. Privately operated prisons can provide full security and rehabilitation programs consistent with the standards required by the laws of this state, as well as providing a cost savings.

In the face of declining revenues, the Department must find the most cost-effective means of incarceration. Passage of this bill would allow the Department to incarcerate prisoners for less money than the state currently spends, while complying with its constitutional mandates of prisoner reformation and protection of the public.



Lloyd Hanes, Commissioner

DATE: 3/18/92

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. H.B. 420

Revision Date: 03/11/92 Department Affected: Department of Corrections

Title: "An Act" expanding the authority of DOC to contract...for the care of prisoners BRU: Statewide Operations

Sponsor: House Rules Component: Various

Requestor: Governor COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	(*)	(*)	(*)	(*)	(*)	(*)
TRAVEL	(*)	(*)	(*)	(*)	(*)	(*)
CONTRACTUAL	*	*	*	*	*	*
SUPPLIES	(*)	(*)	(*)	(*)	(*)	(*)
EQUIPMENT	(*)	(*)	(*)	(*)	(*)	(*)
LAND & STRUCTURES	(*)	(*)	(*)	(*)	(*)	(*)
GRANTS, CLAIMS	(*)	(*)	(*)	(*)	(*)	(*)
MISCELLANEOUS						
TOTAL OPERATING	(*)	(*)	(*)	(*)	(*)	(*)

CAPITAL	(*)	(*)	(*)	(*)	(*)	(*)
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	(*)	(*)	(*)	(*)	(*)	(*)
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
TOTAL	(*)	(*)	(*)	(*)	(*)	(*)

POSITIONS:

FULL-TIME	(*)	(*)	(*)	(*)	(*)	(*)
PART-TIME	(*)	(*)	(*)	(*)	(*)	(*)
TEMPORARY	(*)	(*)	(*)	(*)	(*)	(*)

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached Analysis.

Prepared By: Diane Schenker, Legislative Liaison Phone: 465-3376

Division: Office of the Commissioner Date: 03/12/92

Approved by Commissioner: Lloyd Hanes, Commissioner

Agency: Department of Corrections Date: 03/12/92

CONTINUATION OF FISCAL ANALYSIS

HB 420: An Act expanding and clarifying the authority of the Department of Corrections to contract for facilities for the confinement and care of prisoners; and providing for an effective date.

The bill would allow the Department to contract with private entities for the care and confinement of prisoners in or out of state. Current statutes allow the Department to contract for this service only with public entities out-of-state and only for certain furloughs and misdemeanants in-state. The Department is aware of approximately 540 prison beds available outside the state to house prisoners at substantially lower costs than incarcerating them in Alaska. These beds are operated by private entities and cannot be utilized without this statutory change.

Current prison population forecasts suggest that the state prison population is in a no-growth pattern and may even be slightly decreasing. These forecasts, however, are based on the highly questionable assumptions that there will be no changes in Alaska's population/demographics, no changes in criminal statutes, no increases in arrests or prosecutions, and that Alaskan prisoners currently housed out-of-state in the Federal Bureau of Prisons or other state facilities will be allowed to remain there.

Scenario #2, below, is based on the assumption that the prison population will grow, despite current forecasts based on limited data. Scenarios #1 and #3 apply to both growth/no growth assumptions:

Cost Savings Scenario #1: Avoid returning to Alaska those prisoners currently housed out-of-state: (\$1,076,020 per year)

The Department currently contracts with the Federal Bureau of Prisons and several states for care and custody of Alaskan prisoners. The average daily cost of incarcerating a prisoner in Alaska is approximately \$96 per day. The average daily cost of incarcerating a prisoner out-of-state is approximately \$52 per day in federal or state-operated facilities. For every prisoner incarcerated out-of-state, this difference results in an annual savings of \$16,060. There are 67 prisoners housed out-of-state at this time, resulting in savings of \$1,076,020 per year. The federal and state correctional systems are facing overcrowding crises. If these systems refuse to continue housing Alaskan prisoners, due to overcrowding in their own systems, the prisoners will have to be returned to Alaska and this savings will be lost.

CONTINUATION OF FISCAL ANALYSIS--HB 420

Cost Savings Scenario #2: Avoid capital expenditures for additional prison construction and subsequent additional operating costs.
((\$31,870,000 over five years)

The Department is currently reviewing classification procedures which may allow more placements of prisoners in community residential centers or other community alternatives to incarceration. However, if the prisoner population grows and if sufficient numbers cannot be safely diverted to community placements, more prison beds will have to be added to Alaska's system. Construction of a 200-bed medium security prison is estimated to cost approximately \$90,000 per bed, or \$18,000,000. Subsequent operating costs, based upon the current statewide average of \$96 per bed-day, would be \$7,008,000 per year.

Estimating capital costs of \$18,000,000, and five years of operating costs at \$7,008,000, the additional capital and operating funds needed would exceed \$53 million.

The cost of housing 200 prisoners for five years, at the average out-of-state daily rate (conservatively assumed to be \$58 per day), would be \$21,170,000. No capital costs would be incurred.

Under this scenario, the option of housing prisoners in privately operated facilities out-of-state could be used as a temporary measure during periods of crisis overcrowding. By diverting excess prisoners out-of-state, the savings in operating costs and capital costs could be used to set up more cost-effective programs in Alaska, such as day reporting centers, electronic monitoring programs, intensive supervision units, and additional community residential or treatment beds. Once the initial investments have been made to set up such programs, out-of-state prisoners could be returned to Alaska as incarcerated prisoners are diverted into these local, lower-cost alternatives.

CONTINUATION OF FISCAL ANALYSIS--HB 420

Cost Savings Scenario #1: Close or downsize current facilities and transfer prisoners to lower cost beds in privately operated correctional facilities outside Alaska. (\$ 6,535,000 per year)

Method A: Savings based on average daily costs of care:

This estimate is based on an assumption of 500 Alaskan prisoners transferred out-of-state. The out-of-state average daily cost is based on the estimated cost for a privately operated facility in Minnesota which currently has 500 beds available. (The Department is aware of an additional 30-40 available beds in Oklahoma for about \$50 per day.)

Alaska daily cost of care: \$96 per day X 365 X 500 = \$17,520,000

Contractual cost of care: \$58 per day X 365 X 500 = \$10,585,000

DAILY COST OF CARE SAVINGS = \$ 6,935,000

(Less one-time transportation costs, estimated
at \$800 per prisoner) - 400,000

NET SAVINGS \$ 6,535,000

Method B: Savings based on reduction in operating costs at various institutions: (Savings would vary depending upon sites selected)

Because of the variation in daily costs of care among Alaskan institutions, a more accurate method of estimating cost savings involves identification of specific facilities which could be closed or downsized. Because of the complexity of this method, a specific cost savings is difficult to estimate. Decisions regarding closing or downsizing facilities must take into account lease conditions, the needs for booking and short term housing in various communities, and the security ratings of facilities.

It is estimated that for every three 24-hour security posts which can be eliminated, the Department realizes a cost savings of \$1 million.

As in Scenario #2, this option could also be used as a temporary measure. The savings could enable the Department to set up local, lower-cost alternative programs to which prisoners could be diverted in Alaska. This alternative could also be used temporarily while the Department makes facility improvements which would allow higher housing capacities in Alaska's facilities.

Daily Cost of Care (FY91) for Prisoners

<u>Institution</u>	<u>Average Daily Cost Per Inmate Day</u>
Fairbanks	\$ 99.39
Anvil Mountain	127.01
Yukon-Kuskokwim	126.64
Palmer	73.11
Mat-Su Pretrial	109.19
Hiland Mountain/Meadow Creek	69.41
Cook Inlet Pretrial	62.19
Sixth Avenue	99.21
Wildwood	76.41
Spring Creek	86.16
Lemon Creek	102.05
Ketchikan	<u>128.55</u>
 AVERAGE IN-STATE COST	 \$ 96.61 *

* This figure does not include the daily cost of Statewide Programs such as health care, contractual education/supplies, mental health/psychiatric care, chaplaincy, and special treatment programs.

AVERAGE FY91 OUT-OF-STATE COST \$ 52.48 *

* This figure is based on an average of the daily costs of care in the publicly operated out-of-state facilities with which Alaska's Department of Corrections currently contracts: Federal Bureau of Prisons, State of North Dakota, and State of Minnesota.

COST OF CARE IN PRIVATELY OPERATED PRISONS: \$ 50 - 58 *

* There are 30 to 40 beds available in a facility in Oklahoma, at a cost of about \$50 per day. There are 500 beds available in Minnesota, at a cost of about \$58 per day regardless of custody status, type of crime, gender, or length of sentence.

[Information taken from Alaska Corrections in Review 1991 Report, p. 149 and out-of-state contractual summary, 3/2/92.]

Potential Impacts on Prisoner Population Growth

The following bills are pending in the Legislature which would criminalize additional acts, increase the severity/length of sentence for certain crimes (including raising certain crimes from misdemeanors to felonies), and/or facilitate arrests and prosecutions for certain crimes:

<u>BILL NUMBER</u>	<u>POTENTIAL IMPACT ON PRISON POPULATION</u>
HB 101	Increases potential cases of juveniles prosecuted as adults
HB 102	Lowers DWI level from .10 to .08
HB 106	Extends maximum period of probation (and thus potential revocations)
HB 262	Raises age limit for contributing to delinquency of minors; criminalizes certain weapons offenses
HB 361	Raises seriousness of certain sex offenses
HB 367	Facilitates more effective prosecution of certain controlled substance offenses
HB 370	Eliminates statute of limitations for certain sex offenses
HB 396	Raises seriousness of certain assaults, sex offenses, drive-by shootings, and weapons offenses; extends statute of limitation for certain offenses; limits sentence reductions by three-judge panel; limits parole eligibility in certain cases
HB 436	Raises from misdemeanor to felony: giving alcohol to a minor
HB 440	Criminalizes "failure to register" for certain sex offenders
HB 490	Raises from misdemeanor to felony: certain sales of bear parts
HB 510	Raises seriousness of certain assaults and thefts against elderly/disabled, some from misdemeanor to felony level

Potential Impact on Prisoner Population Growth

<u>BILL NUMBER</u>	<u>POTENTIAL IMPACT ON PRISON POPULATION</u>
HB 517	Criminalizes conspiring to commit certain acts
HB 532	Criminalizes certain sales of art reproductions
HB 534	Raises interference with constitutional rights from misdemeanor to felony
SB 317	Eliminates statute of limitations for sex certain offenses
SB 333	Extends statute of limitations for certain sex offenses
SB 343	Criminalizes conspiring to commit certain acts
SB 358	Raises seriousness of thefts involving certain safety equipment
SB 364	Extends statute of limitations for certain sex offenses
SB 378	Criminalizes consumption of alcohol for certain convicted felons, for life
SB 385	Criminalizes certain sales of handicrafts in bars
SB 424	Criminalizes conspiring to commit certain acts
SB 444/HB 554	Criminalizes conspiracy to commit certain acts; raises seriousness of certain controlled substance offenses; criminalizes money laundering; facilitates more effective prosecution of certain controlled substance offenses
SB 445/HB 555	Facilitates more effective prosecution of certain offenses/cases
SB 437	Facilitates more effective detection and prosecution of certain weapons offenses

Potential Impact on Prison Population Growth

The following bills, which have been introduced in the Legislature, would encourage or require less costly alternatives to incarceration and/or reduce prison overcrowding:

<u>BILL NUMBER</u>	<u>POTENTIAL PRISON POPULATION REDUCTION</u>
HB 90	Facilitates use of fines as a sentencing option, which may reduce reliance on incarceration for punishment
HB 151	Increases eligibility for discretionary parole
HB 174	Establishes pilot programs for alternatives to incarceration
HB 224/SB 215	Provides early release mechanisms to respond to emergency overcrowding
SB 214	Reduces liability for those releasing or supervising offenders on parole, probation, furlough, or other alternative supervision in lieu of imprisonment

It is difficult to predict the specific impact of each bill on the prison population. Not all of the bills will be enacted. Clearly, however, there is a much higher potential for prison population growth than for reduction, based on the abovementioned proposals being considered by the Legislature.

During the Department of Law's presentation before the House Finance Committee on March 16, 1992, Attorney General Cole stated that criminal prosecutions have increased approximately 16% during the past year. If this trend continues, the Department of Corrections expects to see a corresponding growth in the prison population which may offset current no-growth forecasts.



House State Affairs Committee

Representative Gene Kubina, Chair

DATE: 3-25-92

PLACE: Capital Room #102

SB 337-Relating to Retirement Incentive Program

SUBJECT OF MEETING:

- HB 420-Relating to Contr'g for Care of Prisoners
- HB 465-Relating to Recycling/Solid Waste Mgt Plann
- HB 493-Relating to Reg'g to Vote at Polling Places
- HB 528-Relating to Public Works Contr/Wage Increases
- HB 565-Relating to Approp: Contr. Settlemt Costs
- HJR 3-Relating to Change Term of Rep's to 4 Years
- SB 185-Relating to Legislative Ethics

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Walter Rosmussen	DOT/PE	3132 Channel Drive	99801	789-9721	465-2960	(Y) N	to answer questions HB 528 ✓
JEFF CATZEN	DOT/PE	"	"	789-1072	"	(Y) N	Questions on HB 465
MICHAEL STARK	Dept of La.	Box KC	99811	789-1072	3428	(Y) N	HB 420
Alva Glaicer	Elections	Box 11017 Juneau	99811		4611	(Y) N	HB 493
Trena Richardson	NEA-AK	Box 2278 S. Iditarod	99604	262-7401	1515	(Y) N	SB 337
Pat Jacobson	NEA-AK	Box 1313 Kodiak	99615	486-3954	-	(Y) N	SB 337
KEVIN PETTY	DOA	P.O. Box 5013			465-2250	(Y) N	IF NEEDED HB 465 HB 528
Mike McMullen	DOA	Box 110201	99811	465-4454	465-4454	(Y) N	HB 565
Kristin Stahl-Johnson	AEEL	Box 2661, Kodiak	99615	465-4454 465-4454	465-3766	(Y) N	HB 465 +
CALEB						(Y) N	
Ed Flanagan	Alaska Laborers	710 W 9th			586 3707	(Y) N	HB 528



House State Affairs Committee

Representative Gene Kubina, Chair

DATE: 3-20-92

PLACE: Capital Room 102

SUBJECT OF MEETING:
 *HJR 3-Relating to Change Terms of Representa-
 to Four Years
 *HB 420-Relating to Contacting for Care of
 Prisoners
 HB 534-Relating to Civil & Human Rights
 HJR 7 - Relating to Limiting Terms of Legim'n
 SB 337 - Relating to Retirement Incentive Program

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
✓ Diane Schenker	DOC.	MS 2000		237	3376	(Y) N	HB 420
✓ Cindy Smith	Network on Domestic Violence	41767 St.	99801		63650	(Y) N	HB 534
✓ Michael STARK	Dept. of LAW	PO BOX KC JUNEAU	99811		3428	(Y) N	HB 420
Michael McKenna	Dept. of Admin. Personnel/OEPA	P.O. Box 100210 JUNEAU, AK 99811	99811	364-2581	465-352	(Y) N	HB # 534
Sherrie Gull	ALASKA WOMEN'S LOBBY	P.O. Box 33156, JUNEAU	10K		463-6744	(Y) N	HB 534
✓ Buddy Mumpin	ASEA AFSCME	Level 5, (Teleconference)				Y N	HB 420
Comm. Turpin						Y N	SB 337
						Y N	
						Y N	
						Y N	
						Y N	