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FISCAL NOTE

Revision Date: 4/5/91
Title: Food/Housing at Remote Construction Sites

Department Affected: DOT&PF
ERU: Statewide Engineering & Operations Standards

Sponsor: House Transportation
Requestor:

Component: Eng. & Oper. Standards
Component Serial Number: 547

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL	400.0	400.0	400.0	400.0	400.0	400.0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS

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

Estimate of current year impact: None.

ANALYSIS: (Attach a separate page if necessary)

See Attachment.

Prepared by: Jeffery C. Ottesen, Director

Phone: 465-2951

Division: Engineering and Operations Standards

Date: April 26, 1991

Approved by Commissioner: 

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: April 26, 1991

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

ANALYSIS (cont. from page 1):

Regulations

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

Operating Costs

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

Opportunity Costs: Federal-Aid Capital Programs

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

Capital Costs: General Funded Capital Programs

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

HOUSE BILL 89
by
REPRESENTATIVE RICHARD FOSTER

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

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

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

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

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

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

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

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

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

Wendy
Alma requested
this from George's
office. Ingrid
called - what do
you think?
L

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TO: Senator Curt Menard, Sponsor of SB 37 and
Senate Finance Committee members

FROM: Senator Al Adams *AAK*

RE: Proposed Committee Substitute for Senate Bill 37

DATE: May 11, 1991

The proposed Committee Substitute for Senate Bill 37 addresses the sponsor's concern for living conditions in remote public construction projects and my concern for the adverse effects of increased costs of remote projects.

These goals are accomplished in two ways. First, food and housing or transportation will have to be provided for those employees who choose these amenities under the same project specifications as in the Labor and Commerce Committee substitute. However, those employees who choose not to avail themselves of these benefits can opt out. Since opt-out employees willingly absorb the costs of food and housing, there is a need for a bonding benefit. That benefit is contained in the section of the bill which provides an employment preference. I have been advised by legal advisors that this preference would be constitutional. A bill to that effect is forthcoming. Section 1 of the bill now includes a findings section to justify the changes.

These provisions would most probably result in contractors actively seeking employees who would choose to opt-out so that contractor bid projections could be lowered and thus more competitive. This would result in reduced project costs to the state as opposed to the opposite effect if these measures were not in the bill. There is also a potential benefit in the selection of Alaska residents over non-residents since contractors might well be able to identify opt-out employees easier among the state's existing labor pool.

To protect contractors there is specific language that the waiver be in writing. In addition, the waiver is non-revokable so that employees would

Page 2

May 11, 1991

Proposed CS for Senate Bill 37

not abuse the preference benefit to secure employment and then attempt to change their status later regarding food and housing. Regulations overseeing the mechanisms of preference would be produced by the Department of Transportation as with the other regulations called for in this legislation.

There is one further change in the committee substitute found on page 2, line 9 by the addition of "or in determining gross weekly earnings under AS 23.30.220". This is to insure that food and housing costs are not included in the spendable weekly wage determinations for computing compensation of injured workers.

DIVISION OF LEGAL SERVICES

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M E M O R A N D U M

May 11, 1991

SUBJECT: CSSSSB 37 () (Food & housing on remote state construction projects - P version dated 5/11/91)

TO: Senator Al Adams

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have asked whether the enclosed draft raises constitutional issues because of the employment preference given to those construction workers who waive the requirement that food and housing or transportation be provided. In my opinion, the waiver probably is not unconstitutional as an impermissible employment preference.

The preference applies to anyone who waives the requirement that the construction contractor provide food and housing. Those who reside close to the project will be in a better position to waive that requirement, since they are more likely to have food and housing available to them, but nothing in the bill prevents anyone from securing local housing and providing for their own meals. Nor is a contractor prohibited from offering, for free or at a price, room and board to those who waive the requirement.

The most recent Alaska case to consider regional hiring preferences is State v. Enserch Alaska Construction, Inc., 787 P.2d 624 (Alaska, 1989). In that case the court held that the opportunity to obtain employment on public construction contracts was an important right under state equal protection analysis. Therefore, state statutes that interfered with the right would be subject to close scrutiny. The law under examination in the case required a regional preference for 50 percent of the jobs in particular trades on projects located in regions found to be economically depressed. The preference created by CSSSSB 95 () is not directly based on residence. It is available to anyone, resident or nonresident. Therefore, it is more likely to survive challenge under the state's equal protection clause than the statute in Enserch. However, given that the practical application will favor local residents there is some possibility that a court would find that the law violated the right of those not from the area of the project. However, it applies to projects in all areas of the state so it potentially offers benefits to a wider number of workers. The preference in Enserch.

Senator Al Adams
May 13, 1991
Page 2

The statutory requirement is skeletal only, and the department must implement it by regulation. How the preference is implemented may give rise to issues which are too speculative to examine in the time available for this memorandum.

If I may be of further assistance, please advise.

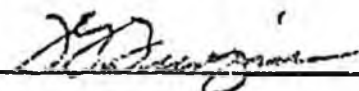
TC:lmb
91-186.lmb



Department of Transportation
and Public Facilities

POSITION PAPER

BILL NO: CSHB 89

APPROVED: 

TITLE: Food/Housing at
Remote Construction Sites

DATE: April 26, 1991

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

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

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

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

For Further Information contact Katy McLough at 465-3900.

BILL NO: CSHB 89

TITLE: Food/Housing at Remote Construction Sites

DATE: April 26, 1991

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

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

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

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

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

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

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

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

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

* How long would you last under those conditions?

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

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

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

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

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

TELECOPY COVER SHEET

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INSTRUCTIONS:

Requested Testimony from Jack
Jackie this morning during
House

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DISPOSAL OF ORIGINAL: Discard _____ Hold for Pickup _____
NUMBER OF PAGES: 2 (Not counting cover sheet)
SENT BY: Christi

Transportation
Hearing

Mr. Chairman
Members of the Committee

My name is Jack Jakubiec. I am a Business Agent for Local 302 of the Operating Engineer's Union. My office is in Fairbanks and my area of business is the Interior and the North Slope of Alaska. Local 302 has offices in Anchorage and Juneau and our collective area of jurisdiction is all of Alaska.

I am here to support House Bill #89. We view this as a health issue for our members.

Historically in Alaska, heavy and highway contractors have provided camps for their workers when the projects were in remote locations. In past years, all, or nearly all, of this work was done by union contractors. The old labor agreements typically required the contractor (employer) to provide board and lodging to all employees where the job was outside of a 40-mile radius of cities or towns that could provide adequate board and lodging.

Non-union contractors have no such camp requirement. This gives them a significant cost advantage over a union contractor. Under pressure from the union contractor to give them a level playing field against the non-union contractor, our union, as well as other unions, have eliminated the room and board requirements on all highway and bridge work in southeast Alaska and on the connected or linked highways in the rest of Alaska, the Dalton Highway excepted.

Now all contractors have the level playing field so earnestly sought but it has resulted in a derogation of the living conditions of our members while on the jobsite. Our members have adapted in many ways to the lack of board and room. The few affluent have purchased camp trailers, motor homes, or campers for their pickups and live in those either squatting alongside the road, at a nearby commercial campground, or in a few cases, in a campground built by the contractor. Many camp somewhere near the project in tents, visqueen shelters, and I have heard of living in dry culverts.

This is not a desirable way for the State to do its construction. There are many serious side effects to this; disposal of human waste, disposal of garbage, consumption of water from questionable source come quickly to mind. We have brought this problem to the attention of the State and have asked that the camp requirements be spelled out in bid documents of the individual projects. To date, no accord has been reached. Even if the State begins to do this it would be a regulatory change which could be changed back to the present method of doing business by a less sympathetic administration.

It would be desirable, from our viewpoint, to have this camp requirement a matter of law.

As a matter of comparison, the State employees on these same construction jobs I have been talking about are paid a per diem rate over and above their regular salary. The short term (30 days or less) per diem rate is \$80.00 per day. The long term (over 30 days) per diem rate is \$50.00 per day. This is somewhat like comparing apples and oranges because they still have to find a place to stay on or near these projects but, at least, are reimbursed for doing so. The construction contractor employees are not reimbursed in any extra way for housing themselves.

It is only reasonable that when the State of Alaska has contractors working for it, they require the contractor to furnish adequate room and board for its employees when there is no other available within a reasonable driving distance.

Thank you.

1. CALL MEETING TO ORDER
2. NOTE THE DATE: Tuesday, April 30th, 1991
NOTE TIME:
3. ROLL CALL OF MEMBERS PRESENT
4. DURING TODAY'S MEETING WE WILL TAKE UP:
HB 89 - Relating to food and housing at remote camp sites. *Teleconferenced to Anchorage, Fairbanks + Kenai*
Overview presentation by DOT on the statewide transportation plan.
5. INTRODUCE ANY SPECIAL GUESTS OR V.I.P.s
6. REQUEST ANY PERSONS WISHING TO TESTIFY TO SIGN THE WITNESS REGISTER

ANNOUNCEMENTS AT CLOSE OF MEETING

7. THE NEXT MEETING OF THE HOUSE TRANSPORTATION COMMITTEE WILL BE:
Tuesday, May 2nd, 1991
at this time, we will take up
HB 295
Discussion on DOT bidding and procurement procedures.
8. ADJOURN MEETING. NOTE TIME OF ADJOURNMENT.

SUBJECT LINE TO READ: TC NO.; PL FS; SHORT SUBJECT; DATE

T/C NO: 91-04-194
DATE: 04-30-91
SPONSOR: H TRANSPORTATION
SUBJECT: CONSTRUCTION
MODERATOR: JUDY
SITE: ANCHORAGE

PARTICIPANT LIST

TO TESTIFY

NAMES/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. A. J. BEAR FIGKIARSKI	AK. ST. DIS. COMM OF LABORERS		
2.			
3.	Suite 140		
4.	2501 Commercial drive		
5.			
6.			

276-1640

94503

TO OBSERVE:

NAME/ REPRESENTING	ADDRESS	PHONE	BILL NO.
1.			
2.			

T/D NO: 91-04-194
DATE: APRIL 30, 1991
SPONSOR: HOUSE TRANSPORTATION COMMITTEE
SUBJECT: HB 89: FOOD/HOUSING AT REMOTE CONSTRUCTION SITES
MODERATOR: CHRISTI
SITE: FAIRBANKS

456-4584

315 Barnette
FBX, AK 99707

PARTICIPANT LIST

TO TESTIFY

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. JACK JAMUBIEC --TUOE			HB 89
2.			
3.			
4.			

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Mary Van Nimwegen

House Transportation 4-30-91



House Transportation Committee

DATE: 4/30/91

PLACE: Room 17

SUBJECT OF MEETING:
 HB 89
 Overview by D.O.T

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Don ROULEAU	Alaska Laborers	712 - W. 9th St. Juneau, AK.	99801	4315 586-3707	586-3107	<input checked="" type="radio"/>	<input type="radio"/>	Camp Bill HB - 89
Clyde Stoltzfus	DOT/PT	Box 2 Juneau, Ak. 99801	99801	789-1460	465-3400	<input checked="" type="radio"/>	<input type="radio"/>	State Transportation Plan
Bob Ward	ABC					<input type="radio"/>	<input type="radio"/>	
D Donley						<input type="radio"/>	<input type="radio"/>	
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