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506

## ANALYSIS OF HB 506

"An Act relating to payment for purchase by the State; and providing for an effective date".

Section 1 (a) Requires the agency to pay on a required payment date as defined under terms of a contract or 30 days after receipt of proper invoice.

Subsection (b) Provides for the State to take advantage of any discounts offered by a vendor and if invoice is paid on time, the State agency will deduct the amount of the discount offered from the total amount of the invoice.

Subsection (c) Establishes the rate of interest at 1.5% per month that must be paid by the State for past due balance -- also provides for the exclusion of interest in the event the seller and the State have mutual agreement.

Subsection (d) 1. Exempts purchases of more than \$500,000 from the provisions of the bill.

Subsection (d) 2. Provides for an exemption in the event the State notifies the vendor or seller of a dispute in the invoice.

Subsection (e) Provides that any interest incurred by lack of prompt payment will be charged to the budget of the department involved.

Subsection (f) 1. Defines dispute as non-compliance, in performance or price, with the terms of the contract, as determined by administering State Officer.

Subsection (f) 2. Defines when payment is made.

Subsection (f) 3. Defines a state agency

Section 2. Exempts and contracts entered into before the effective date from this Act's provisions.

Section 3. Provides an effective date of July 31, 1983.

## BACKGROUND ON HB 506

This bill has been supported by 92% of the 3600 Alaskan members of the National Federation of Independent Business. The State of Alaska is notorious for late payment of its invoices and statements. This neglect by State agencies has caused many small business' to borrow money to supplement their normal cash flow. Since the products or merchandise were purchased on a bid basis the profit margin was probably wiped out by the high interest rate charged by the loan institution.

Mr. Leonard Lemon, Comptroller of the U.S. Army at Fort Greely advised that their paying of invoices has become more routine and simplified since their compliance with the Prompt Payment Act--Public Law 97-177. This public law is now incorporated in Army regulations. The Prompt Payment Act carried 133 sponsors when it was introduced in Congress.

An argument put forth by the Administration is that only a small percentage of vendors are victims of this inattention but regardless of whether the bill is \$1000 or \$10000--if it is past due 60,90 or 120 days the financial position of that business caused by this lack of good faith can be devastating. The State has put a high annual fiscal cost to this bill-- this is just a good indication of what the vendors are carrying in past due accounts. There are many Alaskan business' that will not give our State agencies credit because of its poor paying habits.

This bill is needed in Alaska and it is supported by a large majority of Alaskan and other businesspersons.

*Background/ HB 506*

# NFIB® / ALASKA

## STATE REPORT

The National Federation of Independent Business prepared this report on the activities of its State Governmental Relations Department as a special service for its members.

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### GOVERNOR VETOES KEY SMALL BUSINESS LEGISLATION

Without any advanced indication of his intent, Governor Sheffield vetoed the most important small business legislation to come out of the 1983 Legislative Session. HB 210, originally drafted and actively supported as NFIB/Alaska's key legislation, would have required the state of Alaska to pay interest on invoices not paid within 30 days of receipt.

On the 1982 NFIB/Alaska State Ballot an overwhelming 92% of the Alaska voting membership gave support to the

issue of requiring the state to pay interest on their overdue accounts. HB 210 was written primarily for small businesses who contract with the state since it specifically excludes any purchase orders or contracts in excess of \$500,000. The bill had provided that state agencies initiating an order or contract be required to pay interest of 1½¢ per month if a proper invoice were not paid within 30 days of receipt of invoice. If the invoice is not paid within the 30-day period, interest would be charged from the date of

receipt by the agency until the date of payment.

The only exclusion from the requirement to pay interest would be on specific items in dispute, i.e., an item sent was not the exact item ordered. The state agency would be required to notify the vendor within 30 days regarding those items in dispute and would be required to pay for the undisputed items of that same period to avoid paying interest on the undisputed items. Once the problems are resolved on the items in dispute, those items would also be subject to payment of interest if not paid for within 30 days of the resolution of the problems.

This bill would not have passed the Legislature without the strong support of Rep. Richard Schultz of Delta Junction and the assistance of Rep. Jim Duncan of Juneau. Rep. Schultz also had this bill designated as one of the House priority bills which helped to assure its passage.

All is not lost, however, from the Governor's veto; it is merely delayed. It is probable that the Legislature will override the veto. This is not a sure thing even though the bill passed both the House and Senate by nearly unanimous votes. It is suggested that particularly those members who do business or even contemplate doing business with the state should contact both their state senator and state representative to request their support of an override of the Governor's veto. Interest penalties will encourage prompt payment of the state's purchasing obligations, which in turn can help the involved small businesses conserve working capital and improve profit margins.



Gary Jenkins (right), director of Governmental Relations/Alaska and Rep. Richard Schultz (Delta Junction) are shown during one of their many discussions regarding key NFIB/Alaska legislation on payment of interest by state agencies on past due accounts.

## OVERVIEW

The pace of the snail best characterizes the 1983 Legislative Session (particularly significant since the leadership in both the Senate and House was basically the same in the previous session.) This should have resulted in a more efficient and relatively shorter session. Instead it was the longest session in Alaska's history with the Senate finally adjourning on June 27th.

The length of the session was also difficult to understand since there were no major critical issues to delay the session. With revenues declining, the most critical issue appeared to be how much money there would be to fund the operating budget, and more importantly to many, the two capital projects budgets. The intent is not to belittle the money issue; however, it did occupy an inordinate amount of the legislature's time. This issue will become more critical in subsequent years as state oil revenues continue to decline.

In an effort to encourage the development of other oil, gas or mineral resources in the state, the Legislature passed a bill authorizing a special investment tax credit. HB 258 provides for a credit which may be taken on the Alaska corporate income tax return for investments in either a gas processing project or for exploration, drilling of wells, development, or mining of natural resources in Alaska. The credit allowed is the full amount of the federal investment credit computed on the first \$250,000 of qualified investment during each tax year. If this measure is successful in stimulating development in Alaska, it may prompt other legislation designed to stimulate additional economic development in the state.

The Legislature also dealt with such diverse issues as requiring all motor vehicles to have liability insurance before being licensed to operate on Alaska highways, returning the drinking age to 21 years, and allowing voters to determine whether the Legislature should have authority to annul regulations issued by various state agencies.

The bill requiring vehicle liability insurance passed both the House and Senate; however, each chamber passed a slightly different version of the bill. This required the appointment of a

conference committee to resolve the differences. The bill, still in the conference committee when the Legislature adjourned, is expected to pass early next session.

The bills to change the drinking age and to give the Legislature authority to annul regulations are issues which have had considerable attention in recent years. The legal drinking age was lowered several years ago, due to reducing the "Age of Majority" to 19 years and in support of the argument that if someone was old enough to serve in the armed forces they should be old enough to drink. Records show however that an inordinately high percentage of fatal automobile accidents involve the 19 - 21 age group. There has also been a significant increase in the amount of liquor available to individuals 18 years and under, primarily purchased by 19 - 21 year olds.

The Legislature's authority to annul regulations has also been an on-going issue the past several years. Until seven years ago, the Legislature had taken the position that they could annul regulations by means of a concurrent resolution. However, when the Hammond Administration challenged this in court, the court ruled that the Legislature had no such authority. A resolution was then passed proposing a change in the Alaska State Constitution, which put the issue on the statewide ballot; but voters turned it down. As the result of a similar resolution this year, the issue will again be on the general election ballot in 1984.

It is generally contended that all too frequently administrative regulations go far beyond legislative intent, placing undue burden on either the business sector or the general public. Governors usually oppose legislatures gaining this authority on the basis that it breaches the separation of powers. By a vote of 54% favoring, 25% opposing and 21% with no opinion, the voting NFIB/AK members in 1981 supported a constitutional amendment to allow the Legislature to annul administrative regulations by concurrent resolution.

## SMALL BUSINESS ISSUES

Various issues which could affect small business were also introduced this ses-

sion. Most of those receiving favorable action were issues supported by NFIB/Alaska.

**Exemption of Business Inventories from Local Property Taxes - SB 53:** Permits local cities and boroughs to exempt business inventories from local property taxation. The Legislature would not consider a complete exemption, which NFIB/Alaska strongly supported. On the 1983 Alaska State Ballot, 88% of the voting members supported the exemption of business inventories from property taxes. Most local governments, when contacted by NFIB/Alaska, stated that they would exempt business inventories. It is suggested that concerned NFIB members contact their local governing body immediately and push for them to act now to exempt the taxation of business inventories in future years.

**Limitation of Length of Legislative Session - HJR 2:** Provides that the Legislature shall meet for a regular session of not more than 120 days. The session may be extended for up to ten calendar days by a vote of two-thirds of the membership of each house. Because this will require a change in the Alaska constitution, it must be voted on in the 1984 General Election. This issue has been a key concern to NFIB/Alaska members for several years. On the 1983 NFIB State Ballot, 86% of voting Alaska members favored a limit on legislative sessions (58% favored a 90-day session). While this legislation does not place as short a limit as many members desired, it should definitely prevent marathon sessions such as this year's which lasted in excess of 160 days.

**Wage Base Changed for Computing Workers Compensation Benefits - HB 311:** Provides for workers compensation benefit payments to be based on an employee's spendable weekly wage, which is computed by subtracting payroll taxes from the gross weekly earnings. Gross weekly earnings are computed by dividing by 100 the worker's earnings for the past two years.

This provision should reduce workers compensation insurance premiums over the next few years. This bill also provides for an increase in benefits for a permanent partial disability. However, the effect of this increase should not totally offset the benefits derived

from the change in the computation of the wage base.

While NFIB/Alaska expressed serious concern about the effect of the increase in benefits on premiums, we strongly supported the change in the computation of the wage base. Since the bill originated from an independent committee representing business and organized labor, the Legislature would not consider passing one part of the bill without the other. On the current Alaska State Ballot 72% of the voting NFIB members favored the change to spendable weekly wage in the determination of workers compensation benefits.

**Small Business Development Loan Program - HB 208:** Establishes a small business development loan program in which loans of up to \$100,000 would be available to qualified borrowers at an interest rate equal to the federal discount rate plus 3%. At present, with the federal discount rate at 8½%, the interest rate for the program, if enacted, would be 11½%.

NFIB/Alaska has been unsuccessful to date in gaining serious consideration of this measure by the Legislature because of the confusion regarding numerous other existing loan programs, though none of them adequately address the needs of small businesses requiring long-term loans of \$100,000 or less. To get this bill moving, NFIB/Alaska needs your assistance in providing specific examples of business expansions that would take place if funding was available at reasonable interest rates. It would also be helpful to know if such expansion would create any additional jobs. On the current Alaska State Ballot, 67% of the voting members favored the concept of this legislation.

**Alaska Administrative Journal - SB 132:** Provides for the state to publish, on a bi-weekly basis, a journal which will include such items as notification of the publication of regulations; notices of state agency meetings, invitations to bid, state agency requests for proposals; and, the text or summary of the text of regulations which a state agency has adopted. The journal will not be published in written form and will only be available through the legislative data processing system. Access to this information will be through one of the legislative information offices. Since the legislation was just

signed, it will be some time before the system is operational. It is understood that the system will be designed so that a printout can be obtained of any desired information.

**Toxic and Hazardous Substances - SB 79:** Provides that if an employee works with a substance which OSHA has classified as toxic or hazardous, the employer will be required to make the employee aware of the substance and provide the employee, on request, with a copy of the information published by OSHA which explains the hazards of the substance.

## THE CHALLENGE AHEAD

The long-range outlook regarding the financing of state operations is not good. Already the prospects of funding future state government operations and education in Alaska look bleak. Unless additional sources of revenue are found within the next three to four years, we will probably face significant increases in taxes to make up for declining oil-related revenues. NFIB/Alaska will be watching this closely and will keep you informed.

Many bills, introduced this year and carried into the 1984 session, would have either a positive or negative impact on the small business community. For example, HB 208, the small business loan program, is one of major interest to many NFIB/Alaska members. Additionally, the vote to override the Governor's veto of HB 210, requiring interest payment by the state on overdue accounts, will be brought to a vote early in the session.

One bill, HB 246, would have an adverse impact on small business. This bill provides for repeal of all interest rate limitations, and applies to interest rates charged by banks on loans to either individuals or businesses and to interest rates on credit extended by businesses, credit card companies, small loan companies, and credit unions. Because of the potential effect on various small businesses, the repeal of interest rate ceilings will be one of the key issues on the 1983-84 Alaska State Ballot. HB 246 has already been passed by the House and is presently in the Senate Labor and Commerce Committee.

Legislation is also pending to modify the Alaska Bidder Preference Law by granting Alaska bidders on state contracts a 5% price advantage over non-resident bidders. HB 106 would further protect Alaskan bidders by requiring that if a bid is a joint venture, all parties must be qualified Alaska businesses. This bill has also been passed by the House and is awaiting action in the Senate.

The equal access to justice issue will be a prime target for next year. Passage of this legislation would require state agencies to reimburse reasonable attorney fees and court costs to small businesses who are successful in civil cases involving state agencies. Such reimbursement should be retrieved from an agency's regular administrative budget to encourage fair and more efficient regulation and to avoid additional expense for state government. Such legislation, through NFIB member support throughout the country, has been passed at the federal level and in certain states. Note: To substantiate the need for this legislation in Alaska, NFIB/Alaska would appreciate hearing from members of their experiences when an unwarranted state fine/citation has been paid to avoid the time and cost of litigation.

Your NFIB will also be following through on other issues that you have strongly endorsed through your votes and comments on previous Alaska State Ballots. Some of these issues include increasing the percentage of employment security tax paid by employees, reducing state competition with the private sector, increasing the dollar amount for jurisdiction in a small claims court, and regulatory flexibility legislation.

Your continued support and active involvement in voting the NFIB/Alaska State Ballot is appreciated, as are your comments on the ballots and your response to alerts during the session. There is no substitute for the individual opinions of persons who can speak from their own experience about the impact of proposed legislation on their business operations.

## THE RECORD

So you may know how your state senator and representative voted on selected issues of interest to independent



# TABULATED RESULTS — 1983 ALASKA STATE BALLOT

## TAXES/FISCAL

### 1. QUESTION

Should the portion of the Alaska Employment Security Tax paid by the employee be increased?

Favor	Oppose	Undecided	
$\frac{82\%}{1}$	$\frac{14\%}{2}$	$\frac{4\%}{3}$	11

### 2. QUESTION

Should the state provide funding for a new program to provide small business loans at moderate (12%) interest rates to stimulate small business development throughout the state?

Favor	Oppose	Undecided	
$\frac{67\%}{1}$	$\frac{25\%}{2}$	$\frac{8\%}{3}$	12

### 3. QUESTION

Assuming a new, small business loan program is created, should the program be administered by local banks rather than a state agency such as the Division of Business Loans?

Favor	Oppose	Undecided	
$\frac{71\%}{1}$	$\frac{21\%}{2}$	$\frac{8\%}{3}$	13

### 4. QUESTION

Should business inventories be exempted from local property taxes?

Favor	Oppose	Undecided	
$\frac{88\%}{1}$	$\frac{9\%}{2}$	$\frac{3\%}{3}$	14

## 5. QUESTION

Should the funds appropriated for the Permanent Fund Dividend Program be used for new harbors, airports and roads throughout Alaska instead of the individual grants to residents?

Favor	Oppose	Undecided	
$\frac{61\%}{1}$	$\frac{31\%}{2}$	$\frac{8\%}{3}$	15

## LABOR

### 6. QUESTION

Should all primary corporate officers be given the option of exemption from the Alaska Employment Security Act?

Favor	Oppose	Undecided	
$\frac{73\%}{1}$	$\frac{19\%}{2}$	$\frac{8\%}{3}$	16

### 7. QUESTION

Should the wage base for computing workmen's compensation benefits be changed from the current average weekly wage to the spendable weekly wage?

Favor	Oppose	Undecided	
$\frac{72\%}{1}$	$\frac{16\%}{2}$	$\frac{12\%}{3}$	17

### 8. QUESTION

Should the maximum benefit paid under workmen's compensation for a permanent partial disability be increased?

Favor	Oppose	Undecided	
$\frac{17\%}{1}$	$\frac{65\%}{2}$	$\frac{18\%}{3}$	18

8A. If you favor an increase, indicate what maximum percentage increase you prefer.

10%	20%	35%	Undecided	
$\frac{26\%}{1}$	$\frac{26\%}{2}$	$\frac{11\%}{3}$	$\frac{37\%}{4}$	19

## CONSTITUTIONAL AMENDMENT

### 9. QUESTION

Should legislation sessions be limited to a specified number of days with a maximum of two 15-day extensions, provided that each extension is approved by two-thirds of both chambers?

Favor	Oppose	Undecided	
$\frac{86\%}{1}$	$\frac{11\%}{2}$	$\frac{3\%}{3}$	20

9A. If you favor a limitation, indicate the maximum number of days you believe the Legislature should be in session, excluding any permitted extensions. (If you prefer no limitation, then mark "Oppose.")

90 days	$\frac{58\%}{1}$
105 days	$\frac{21\%}{2}$
120 days	$\frac{16\%}{3}$
Oppose	$\frac{3\%}{4}$
Undecided	$\frac{2\%}{5}$

## GOVERNMENT

### 10. QUESTION

Should the Legislature authorize an analysis to determine what present activities of state government could be more effectively, efficiently, and less expensively performed by private enterprise?

Favor	Oppose	Undecided	
$\frac{84\%}{1}$	$\frac{13\%}{2}$	$\frac{3\%}{3}$	22

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