

SCR

29

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 15, 1996

FURTHER REFERRALS:

Date of Committee Action _____

The FINANCE Committee considered:

CSSCR 29(FIN) am

CS FOR SENATE CONCURRENT RESOLUTION NO. 29(FIN) am

DISAPPROVE SETTLEMENT W/ FERRY EMPLOYEES

Objecting to the Department of Administration's settlement with certain employees of the Alaska marine highway system.

recommends it be replaced
with the following committee substitute _____

the same title
 a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
Died in committee				

CHAIR'S SIGNATURE _____

MEMORANDUM

State of Alaska
Department of Administration
Division of Personnel

To: COLD Project Team

Date: January 19, 1993

Thru: Dianne Corso
Labor Relations Manager

Phone: 465-4404

From: Mila Doyle
Labor Relations Analyst
Labor Relations Section

RE: COLD Investigation Status
Report

The initial phase of the Alaska Marine Highway System (AMHS) Cost of Living Differential (COLD) investigation is drawing to a conclusion. The purpose of this report is to update the project team on the number of AMHS employees still in the active review phase, to identify and discuss policy level decisions that need to be made, and to outline further steps in the investigatory process.

EMPLOYEES IN THE ACTIVE REVIEW PHASE

Currently, there are approximately 248 AMHS employees in the active review phase. These employees are broken down into three groups: Non-Residents, Strongly Suspected Non-Residents, and Need More Information. The latter two groups have been further subdivided according to the system to which they are normally assigned.

	<u>SE</u>	<u>SW</u>	<u>Total</u>
<u>Admitted Non-Residents:</u>	1		1
<u>Evidence Strongly Indicates Non-Residents:</u>	70	17	87
<u>Need More Information:</u>	122	38	<u>160</u>
			248

The employee categorized as an "Admitted Non-Resident" has supplied information on his Certificate of Residency Form that indicates he is not eligible for COLD payments.

Those employees in the "Evidence Strongly Indicates Non-Residents" category have been placed there because they have supplied, or OMB and Labor Relations have obtained positive evidence that does not support their residency status:

- they have greater residential ties in another state, eg, own property, register cars, have drivers licences, etc;
- they have not applied for, or have been denied a Permanent Fund Dividend in 1990, 1991 or 1992;
- they have submitted utility bills for which the rate of consumption is below a habitable level;
- they have been reported by another party as being a non-resident; AMHS has questioned their residency in the past, and/or:
- other facts or evidence have been obtained that would lead a reasonable person to doubt the employees status as an Alaskan resident.

Those employees who fall into the "Need More Information" category are placed there for a variety of reasons. Some employees are most likely residents but have failed to provide requested information such as a rental receipt or agreement, or they have neglected to sign the Residency Certificate Form. There are approximately twenty-five (25) to thirty (30) employees who fit this description. The remaining employees in this category are more questionable. Some are roommates with employees who evidence indicates are non-residents and thus, if residents themselves, may be in collusion with other AMHS employees. Other employees are currently residents but we have clear information to indicate that this is a recent occurrence and that they most likely have been collecting COLD fraudulently for a number of years. In addition, employees have been placed in this category because we simply do not have enough information to make a clear determination as to their residency status.

It should be noted that in the "Evidence Strongly Indicates Non-Residents" and the "Need More Information" categories there are approximately fifteen (15) individuals who have recently terminated their employment

from AMHS. Should a decision be made to recover overpayments, these individuals should be considered further.

POLICY DECISIONS

Once an employee is found ineligible for COLD payments, there are three levels of action that can be taken; 1.) Cessation of COLD payments, 2.) Recovery of past COLD payments, and 3.) Discipline.

1.) Cessation of COLD payments

It is critical that once an employee is found ineligible for COLD payments, that he or she be denied continuance of COLD as soon as possible. Because the investigation will be conducted over a period of months, a consistent COLD cessation date should be determined and applied to each individual who fails to pass the residency requirement. A consistent date will assure that all employees whose COLD payments are discontinued are treated equally. Please note, these dates will apply only if there is a policy decision not to recover past COLD payments.

Options 1:

There are several dates that can be used: May 1, 1992, August 6, 1992, or November 15, 1992.

PROS

CONS

May 1, 1992:
(Employees were asked to provide residency verification beginning with this date.)

- Marks the period for which the employee's residency was initially questioned.
- Gives the maximum recovery time for cessation of COLD payments.

- There is no advance warning to employees that their residency is being questioned.

Aug. 6, 1992:
(Date of Commissioner Turpin's letter to all AMHS employees.)

- Provides clear warning to employees that they need to comply with residency requirements.

- State would lose 3.0 months of COLD payments.

Nov. 15, 1992: (Date which employees who did not respond to Commissioner Turpin's original letter were notified that if they did not provide the information requested, COLD payments would be terminated.)

• Provides a consistent date with a reasonable response time allotted.

• State would lose 6.5 months of COLD payments.

• If earlier date selected, additional monies would need to be collected from those employees' whose COLD payments were discontinued due to failure to provide requested information.

Option 2:

PROS

CONS

By individual, 1st pay period after formal determination of ineligibility is made.

• Date is easily determined.

• Inconsistent dates meaning some employees will receive COLD longer than others despite their identical non-resident status. This is particularly critical given the fact that the most likely abusers of COLD are currently slated to be investigated last.

2.) Recovery of Past COLD Payments

AMHS employees have been eligible for COLD payments since 1982. It is clear that some of the employees the State currently suspects are non-residents have been collecting COLD payments for all or part of that time period. The amount of COLD payment an employee receives varies depending upon the bargaining unit to which an employee belongs. IBU members make approximately \$425 - \$700 per month and MEBA and MM&P members make \$800-\$1300 per month in COLD payments. This equates to an extra \$5000 to \$15,000 per year. For example, a MEBA employee who has been a non-resident for ten years and fraudulently claiming COLD payments during that time could have received in excess of \$150,000 to which he was not entitled.

A decision needs to be made regarding recovery of past COLD payments. The decision presents unique problems as well as distinct advantages and/or obligations on the part of the State.

PROSRecover past COLD payments:

- Substantial amount of money may be recovered.
- Consistent with practices of the State regarding overpayments.
- Sends a clear message to fraudulent claimants of other programs that the State is serious about recovery.

Do not recover past COLD payments:

- Simplifies the current investigation.

CONS

- Will require additional investigation. Investigation will be more complicated.
- Employees who owe substantial amounts of money may quit, making civil litigation necessary for further recovery efforts.
- State loses a substantial amount of money.
- Violates policy and past practices of the State regarding collection of overpayments.
- Establishes grounds for disparate treatment argument in other overpayment situations.
- Negative public reaction.

If a decision is reached to recover COLD overpayments, funds may be deducted from an employee's salary until the debt is satisfied. Should an employee terminate employment with the State and still owe money, it may be possible to recover funds from an employee's SBS or PERS account. However, further investigation on this subject is necessary to determine the viability of this option.

3.) Discipline

Once an employee has been found ineligible for COLD payments, a decision must be made as to whether or not discipline is warranted and, if warranted, what level of discipline will be imposed. If an employee is clearly ineligible for COLD payments, yet has indicated that they are a resident of the State of Alaska and eligible for COLD payments, they have knowingly engaged in fraud for the purpose of personal enrichment. According to the past practice of the State regarding employee dishonesty and theft, immediate termination is warranted. However, termination may reduce the probability of recovering past COLD payments.

In this case, however, there may be mitigating factors that may impact the decision regarding the level of discipline warranted. The most significant mitigating factor is the allegation that management's representatives has specific knowledge that some AMHS employees were non-residents claiming COLD and took no action. The Union may be able to successfully argue that management's decision to "look the other way" essentially created a past practice allowing non-residents to claim COLD payments. While the State still has a clear basis to pursue dismissal, the issue of alleged management complicity, intentional or otherwise, will need to be addressed.

PROS

Termination:

- Consistent with past practice of the State in theft cases.
- Sends a clear message to remaining employees, and the public at large, that employee theft will not be tolerated.

CONS

- Makes it more difficult to recover COLD over-payments. State would probably need to pursue civil litigation.
- There are a large number of suspected COLD abusers in MEBA. A decision to terminate employees could have a significant impact on daily operations of AMHS. This could result in negative public reaction.
- Raises issues of management complicity.

Lesser
Discipline:

- Employees remain working for AMHS, therefore, it is easier to recover COLD overpayments.
- Sends a message to employees that employee theft not necessarily a dismissal offense.
- Has a less significant impact on the daily operations of AMHS.
- Not consistent with past practice of the State in theft cases.
- Raises issues of management complicity (may be argued as a mitigating factor by the State to justify a lesser degree of discipline.)
- Negative public reaction

No Discipline:

- No impact on the daily operations of AMHS.
- Employees remain working for AMHS, therefore, it is easier to recover COLD overpayments.
- Not consistent with past practice of the State in theft cases. Could create problems down the road in enforcing discipline in theft cases.
- Sends an unclear message to employees.
- Negative public reaction.

CONTINUING THE INVESTIGATION

In order to attain a supportable case in arbitration and/or court, further investigation is required on most of the employees still in active review status. Parts of this investigation can be accomplished through requesting additional information from other State agencies or the employees themselves, and thus can be completed by this office. Indeed, the Labor Relations Section should be responsible for coordinating and conducting the investigatory interviews prior to final action being taken. However, in many cases, the serious suspicion of employee fraud suggests that a more comprehensive investigation be conducted prior to final action. Such an investigation, at this point goes beyond the financial and professional resources of the Labor Relations Section.

Options identified at this time for completing the investigation include involving the White Collar Fraud Section of the Alaska State Troopers, spending the time and resources necessary to conduct the investigation in-house, or hiring a private investigator. As the monetary resources needed for this phase of the investigation should be recovered by the results of the investigation, it is suggested that one of these options be selected.

I will be contacting your office shortly to arrange a meeting to discuss the issues outlined in this memorandum. In the meantime, if you have questions or concerns, please do not hesitate to call.

cc: Frank Turpin, Commissioner
Department of Transportation and Public Facilities
Nancy Bear Usera, Commissioner
Department of Administration
Jim Ayers, Director
Alaska Marine Highway System
Joe Geldhof, Assistant Attorney General
Department of Law
Pat Gullafson, Assistant Attorney General
Department of Law
Gary Anderson, Director
Office of Management and Budget, DAMS

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My Turn

Ferry settlements end abuse, make rules clear

BY GARRY TRUDEAU

By MARK BOYER

Let me elaborate on what's been written lately about my agreement with 10 out-of-state Alaska Marine Highway System engineers accused of wrongly collecting in-state cost-of-living pay adjustments. There's lots of misinformation afloat.

I decided to take this issue on after years of inaction and avoidance by others. Maybe that was a mistake, but I felt it was time to put this debate behind us. The state has spent \$300,000 investigating this mess so far and, because the residency criteria is unclear, has managed to win just two of four arbitrations brought by ferry workers.

I felt it was time to do something. So we are moving forward with a plan to settle with some ferry workers and prosecute the remainder. More important, we have asked the Legislature to close a longstanding loophole that has allowed disingenuous workers to abscond with state funds.

First, some brief history. For years, the state fought with some ferry workers about residency. In 1992, the state began investigating those workers who lived out of state but still claimed and collected the cost-of-living differential (COLD), designed to cover higher living costs for in-state workers. Some 712 ferry workers who

claimed to be Alaskan residents and were receiving higher differential pay were investigated and eventually 29 were accused of improperly collecting the differential.

So far, the state has spent more than \$300,000 investigating the matter. Four cases have gone to arbitration. The state won two, lost one, tied one; the losses came because the exiting residency criteria is indeed confusing and has been interpreted differently by different arbitrators. Letting arbitrators decide the criteria, sometimes differently, makes no sense. We lose control of an issue which should be decided by Alaskans.

In addition, one arbitrator sided with ferry workers in a class-action case and ordered the state to use a very lenient definition of residency. That ruling, which we are appealing in Superior Court, would seriously cloud the state's ability to win any arbitration.

The state recently embarked on a plan to close the matter by settling with 10 of the 29 ferry workers, those represented by the Marine Engineers Beneficial Association (MEBA). In all, they will pay back about 21 percent of the \$430,000 they owe in exchange for accepting new residency criteria. The other workers wouldn't

settle, apparently because they think they can win at arbitration because of the ambiguous law and pay back nothing.

Here's why I think our actions are good for the state:

- They end the confusion over residency that started the whole dispute years ago. Under our deal, MEBA workers will quit claiming the differential or abide by the Permanent Fund Dividend definition of residency from now on, saving the state \$120,000 per year. We also introduced a bill in the Legislature to extend that definition to the other ferry system bargaining units, the Inlandboatmen's Union (IBU) and Masters, Mates and Pilots (MM&P).

If the Legislature does its job, that means ferry workers who can't qualify for the dividend won't qualify for COLD, period. Future disputes go away, as does the longstanding loophole.

As for past disputes, it was a previous administration that signed a deal with all three ferry unions allowing the 29 accused workers to keep their jobs and admit to no wrongdoing. The Knowles Administration inherited this whole mess with those limitations already in place.

- The state will prosecute to the full extent of the law those

ferry workers who didn't agree to the same terms as the MEBA employees. We have already asked the Alaska Labor Relations Agency to bring the remaining cases to arbitration.

Because of the residency criteria loophole, some of those cases might be tough to win. But when we do, ferry workers who cheated the state can expect disciplinary action - and to pay back their improper claims in full.

Again, the Knowles administration's actions establish clear residency guidelines for MEBA workers, and the residency loophole and ensure that future disputes won't happen. If the Legislature does its job, those same guidelines will be in place for the other ferry worker unions.

As for those who wouldn't settle, we'll see them at the arbitration table.

Finally, it's important to point out that the actions of a handful of greedy ferry workers should not influence public opinion about the rest. There are hundreds of hard-working employees who run Alaska's ferry system with honesty and integrity. Their reputations should not be tarred.

Mark Boyer is commissioner of the Department of Administration.



4/23/94
 Empire

MEMORANDUM

RECEIVED
State of Alaska

Department of Law
MAR 18 1993

DEPARTMENT OF ADMINISTRATION
COMMISSIONER'S OFFICE

TO: Personnel and Labor Relations
Steering Committee (Distribution
below)

DATE:

FILE NO.:

TEL. NO.:

SUBJECT:

465-3600

AMH COLD Investigative
Support Request

FROM: AMH COLD Working Group *by Pat G.*
(Pat Gullufsen, AGO;
Jerry Bryant, OMB;
Mela Doyle, Lab. Rel.)

At the request of the Personnel and Labor Relations Steering Committee this memo is presented to recommend the employment of an investigator to gather additional evidence in the continuing investigation of a number of Alaska Marine Highway System (AMHS) vessel employees who have been claiming residency for COLD purposes but who are, on the basis of information thus far obtained, suspected of being nonresidents.

The Office of the Attorney General (AG) has surveyed the files of approximately 250 AMH employees where the information provided by the employee or obtained from readily available sources (primarily public records) suggested nonresidency for COLD purposes. On the basis of this survey the AG's office believes that the evidence in approximately 50 cases strongly suggests nonresidency for COLD purposes. A large number of other cases are questionable as to entitlement to COLD. However, in order to prevail in any action (arbitration or lawsuit) generated by the termination of COLD payments (or more serious discipline) gaps in the non-resident data must be filled in by additional investigation. The additional investigation cannot be done by the Working Group.

Jerry Bryant of OMB contacted the Department of Public Safety Criminal Investigation Bureau which investigates "white collar crime". While they may be of help to our in-house investigation, the division director, Col. John Murphy, said their commitment would be limited since criminal prosecution is not anticipated. In addition, it would be very difficult for him to dedicate a trooper for an extended period of time to cases that may only result in civil litigation or arbitration. When they have the staff available or subcontract to retired employees, they charge \$60.00 per hour plus investigation expenses, air fare and per diem.

If the Steering Committee is unable to obtain the necessary assistance from the Department of Public Safety, we suggest the state hire an independent investigator, preferably one located in Seattle since most of the non-resident employees receiving COLD live in the Seattle area. We contacted a Seattle

*Decision
already
made by
Hickel
Admin.
not
presentable
under
criminal
code*

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities
Office of the Commissioner

TO: Nancy Bear Usera
Commissioner
Department of Administration

DATE: October 19, 1993

TELEPHONE NO: 465-3901
TEXT TELEPHONE: 465-3652
FAX NUMBER: 586-8365

FROM: B.A. Campbell
Commissioner

SUBJECT: COLD Investigations

As a result of a meeting held in your conference room on October 13, 1993, we agreed to furnish our recommendations as to the implementation of procedures to finalize COLD investigations.

At this meeting you stated that the responsibility to bring the COLD investigations to a conclusion had been assigned to you by the Governor. We expressed our concern that concluding the COLD investigations could very well impact ferry operations as actual divorce of the issue from day-to-day operations could be difficult. We also expressed concern that the first disciplinary actions should be taken by DOT&PF as opposed to other agencies (i.e., DOA). We continue to be committed to the proposition that an agency with management responsibilities must manage its employees.

We have now reviewed the situation in more detail and are convinced that only a single agency should conduct the conclusion of the COLD investigations.

In recognition of your assignment to assume that responsibility, in this one instance, on behalf of the state, we will take no further action of any type in this matter and leave the conclusion of the COLD investigations totally with DOA.

Any data and/or records we have in our possession will be made available to you for your use in concluding this matter.

In most instances it is our recommendation that punitive actions are probably not warranted as long as a reasonable monetary recovery is achieved. However, that will be your decision. If sever penalties such as termination are determined to be necessary, we assume that you will provide adequate notice so that appropriate personnel changes can occur in a timely manner to fill vacancies so that no adverse effects impinge the AMHS operations.

internal
de poste



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In order to avoid confusion and/or duplication, we are appointing Deborah Vogt as the single point of contact through which DOA personnel should channel all requests for information and/or data which AMHS has in a prepared form. Deborah is an Assistant Attorney General and should be able to provide an effective interface.

In order to bring you up to data as to the status of events as we see them we offer the following:

728	Personnel originally receiving COLD payments
(4)	Personnel recently advised AMHS of non-residency and COLD payments have been stopped
<u>724</u>	Personnel receiving COLD payments

A recent residency questionnaire to all employees brought answers from all but 80 employees.

AMHS has ceased payments to the 80 non-responding employees as of October 18, 1993.

724	Employees on COLD
<u>(80)</u>	Non-responsive employees removed by AMHS
664	Employees receiving COLD on October 18, 1993

As a result of the recent investigation it was determined that:

84	Personnel were suspected of drawing COLD while not actual Alaskan residents
<u>(4)</u>	Have-terminated employment
80	
<u>(1)</u>	One has "owned up" and COLD payments have been stopped
79	Suspects as of October 18, 1993. Of these "79", 59 personnel have submitted the new residency questionnaire and claimed COLD; 20 failed to return the questionnaire. Of the 80 personnel that did not return the questionnaire, 20 were on the suspect list.

Our recommendation for concluding this matter is as follows:

1. Communicate again with the 80 personnel who failed to return the questionnaire via certified mail and advise them that they have been denied further COLD payments.

Upon response, handle each case individually and restore COLD to personnel who are judged to be residents. Add the remainder of personnel not responding to the certified letter to the suspect list of 79.

2. Contact the respective marine bargaining units and request them to meet with DOA representatives and propose alternatives to bring resolutions to the COLD issue.
3. Provide the respective bargaining unit with the responsibility of substantiating the residency of the 59 employees of the "79" that filed claims and any other questionable COLD recipient. The respective bargaining unit should be given 30 days to complete documentation.
4. Accept nothing less than the immediate cessation of COLD payments of any of the 59 of the "79" that the respective bargaining unit is unable to substantiate residency.
5. In those cases where the respective bargaining unit is unable to provide residency documentation of the 59 of the "79", require the employee to pay back all COLD payments since July 1, 1991.
6. In those cases where the respective bargaining unit is able to provide documents of the respective employee residency, DOA will either make a finding agreeing with the bargaining unit or will hold a hearing to review documentation and make a finding. Appropriate action will then be taken.
7. In the event that the respective bargaining unit refuses to participate in the process of documentation and certification, DOA should develop a methodical process to pursue the investigation and hearing regarding the (59) employees of the "79." In the event that a hearing finds violation and misrepresentation, appropriate disciplinary action should be taken. The state should provide opportunities for individual consideration and/or disciplinary action.
- 8a. The 20 employees of the "79" that did not file 1993 residency claim forms should be contacted by DOA and ordered to repay all COLD payments back to July 1, 1991. In the event that they refuse to repay, a process for further investigation and hearing should be established. Appropriate disciplinary action should be taken. The state should provide opportunities for individual consideration and/or disciplinary action.
- 8b. The four employees that have terminated of the "79" should be contacted and dealt with as in 8a.
9. Two employees of the "79" specifically contacted AMHS and admitted that they were no longer residents. (One had filed a claim and then withdrew; the other did not file but called.) The two employees should be required to pay back all COLD payments since July 1, 1991. In the event that they refuse to make payments, they should be dealt with the same as in 8a.

10. Repayments of COLD payments may be made in lump sum, monthly deduction, or vacation cash in.
11. While these recommendations may appear to treat all categories of COLD claimants the same, any individual who voluntarily removes him or herself from COLD should be treated less harshly than those who continue to falsely claim payments.

DOT&PF will assume no role in the conclusion of the COLD investigations and will be involved only in supplying data in its possession and reinstating COLD payments for those employees deemed eligible after DOA has made its findings.

All disciplinary actions adjudged necessary during the conclusion of the investigation will be instigated by DOA.

This recommendation represents our view of reasonable procedure.

cc: Deborah Vogt, Assistant Attorney General, Department of Law
James R. Ayers, System Director, AMHS

RECEIVED

OCT 21 1993

DEPARTMENT OF ADMINISTRATION
COMMISSIONER'S OFFICE

COLD STATUS REPORT
8/9/94

INTRODUCTION:

The employee investigation phase of the COLD investigation is close to completion. In most cases, information has been gathered to arrive at a final determination regarding individual circumstances. The COLD working group anticipates that the majority of cases will be closed by August 31, 1994.

INVESTIGATION:

Of the original 247 employees under investigation, 36 have separated from state service and 168 have been cleared to continue to receive COLD payments. Individuals have been cleared through information obtained from AMHS managers, supervisors and support personnel, on-sight investigations by Roger McCoy, and information gathered from investigatory interviews.

Final determinations have been reached in 5 cases. All five individuals were originally terminated. However, settlement agreements reached between the MEBA and the state put four of the individuals back to work. Full restitution will be sought from all five individuals totaling approximately \$200,000.00.

There are 38 individuals still under investigation.

- 7 To be interviewed
- 10 Pending final determinations and disciplinary action under the terms of the first settlement agreement.
- 21 Pending final review and determinations
- 38

SETTLEMENT AGREEMENTS:

*not
were
offered* → In early 1994 a settlement agreement was negotiated between the state and the MEBA. The terms of that settlement agreement were offered to all members of the MEBA and the MM&P under review in the COLD investigation. IBU declined to participate. Of the twenty or so MEBA members under review at that time, one employee chose to participate. Of the ten MM&P members under review, 8 agreed to the terms.

Once the state began to take final action, the union (MEBA) approached the state requesting the terms of the original settlement offer be extended again. The state refused, but did agree to renegotiate stricter terms. As discussed above, four out of the five employees terminated elected coverage under the agreement. The offer will be extended to each MEBA member once a final determination is reached in their case.

DISPUTE RESOLUTION:

To date there is one arbitration scheduled over the employee terminated for dishonesty related to inappropriate claims of COLD payments. The arbitration is scheduled for December 8 - 9, 1994, in Juneau. In addition, the MEBA has filed an Unfair Labor Practice charge on behalf of this individual. The state will request deferral of the issue pending an arbitration decision.

IBU filed two class action grievances and an Unfair Labor Practice charge over the COLD issue. The Alaska Labor Relations Agency has deferred hearing the ULP until after the arbitration is held. An arbitrator has been selected to hear these disputes and the parties are awaiting scheduling information.

It is anticipated that as further actions take place, additional grievances and/or unfair labor practice charges will be filed.

PROACTIVE:

The Department of Law, Labor Relations, and the Department of Transportation and Public Facilities have held an initial meeting to discuss the issue of future guidelines. Further meetings on this topic are to be scheduled.

8/9/94 still no decision or action
by thick admin
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problem: criteria

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came back
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all
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10/94
press outrage at
rehire by USWA
where were Republican
leaders then
no resolution
calling for
investigation

USWA global
settlements
(copies attached)

Where was Martin in 94?
why no H. Reso./no
investigation/no
sabre rattling about
ethics or grant jury

Public deserves truthful answers

Why did state rehire ferry workers?

Maybe the state had a good reason to rehire several of the ferry workers it fired last month. Maybe Gov. Walter J. Hickel will run for re-election. Maybe the Chicago Cubs will be in the World Series this year.

We know the answer to only one of those questions. The Cubs, who haven't been in the World Series since 1945, will not make it this year.

We'll know the answer to another of the questions within two weeks. Hickel has to decide before the Aug. 23 primary election whether or not he wants to work another four years as governor.

But we may never know the answer to the remaining question: Why did the state rehire several ferry workers who had been fired for allegedly lying about their residency to collect thousands of extra dollars in wages each year.

Seems like a good question to us. And while we're at it, here are some other good questions that deserve answers:

- How many of the five fired workers were rehired?
- What were the exact terms of the settlement agreement that brought the workers back to the job? What is the length of the disciplinary suspensions?
- What union do the workers belong to and what jobs are involved?
- How much does each worker owe the state in overpaid wages?

The state and union are not talking; they're not even hinting. Their public answers to public questions are short, lacking in detail, and frequently quote marvelous words such as "confidentiality rules," "personnel matters," and "no comment." Perhaps words like "public money," "honesty," "fraud" and "public perception" would be better.

What we do know is this: The state has, for the past two years, been investigating allegations of residency fraud against state ferry workers. The employees are paid extra—up to \$1,100 a month—if they live in Alaska. That is to compensate them for the higher cost of living here than in Puget Sound.

Most ferry workers receive the cost-of-living pay differential, which is about 20 percent. Most ferry workers are honest and claim the extra pay only if they live in Alaska. But the state says it found at least five cheaters — and last month fired them.

The union squawked, as it's supposed to do to protect its members, and discussions ensued. This past week the state acknowledged it had rehired several workers — it wouldn't say how many.

That's about it for our knowledge. Anything else is

LETTERS

State is wrong to rehire dishonest ferry workers

Dear editor:

This letter is a response to the state rehiring some of the non-resident ferry workers recently fired for claiming resident pay-differential status!

I find this an affront and a slap in the face of all Alaskans who work hard, honestly, and do not hide behind a union.

What kind of message is the state sending? I interpret it as: "It is all right to lie, steal, cheat, but if you get caught, call your lawyer and union business agent and you can get back into the fold by saying you are sorry and agreeing to pay the money back. After all, we are all in this together and when we are old and looking back on this we can laugh and say just think of all the other ways we ripped off the state and did not get caught. Ha ha ha!"

Maybe I do not understand the big picture of big government or maybe this is the new wave, cutting-edge policies of the state. Perhaps, but I do know that rehiring those crooks is wrong and I would encourage anyone reading this letter to do the right thing and speak out and let the governor know he is not doing his job.

Danny Lakup

Hoping to stay on job

State registers will open for Hickel appointees

By DIRK MILLER

THE JUNEAU EMPIRE

The state is making plans to help 400 or so Hickel administration workers whose jobs will be threatened when a new governor takes over in December.

That help could include financial and unemployment counseling, turning some positions into protected jobs, and allowing administration employees to place their names on state job registers that have been closed to new applicants.

The turmoil is a result of Gov. Walter J. Hickel's announcement this fall that he will not run for reelection. His term of office ends in December.

"We would be irresponsible as a major employer if we did not try to help people deal with the new administration," said Nancy Bear Usera, Hickel's chief of staff.

She said it is not the commissioners and other high-level staff the administration is trying to help. "We knew when we took the job, this day was going to come," Usera said Friday.

But lower-level employees such as secretaries, office workers and other less-politicized positions deserve help, she said.

When the administration hires political appointees not covered by a union contract, they serve at the pleasure of the state's chief executive. It is common for new governors to bring in their own people, including department heads, mid-level managers and personal secretaries.

These so-called exempt and partially exempt jobs generally are not covered by state personnel rules or union contracts.

Movement of a political appointee from an exempt position into a classified job, one that is protected by union rules, would prevent a new governor from getting rid of that employee.

Jobs can also be reclassified, with administration approval, giving employees protection under state

Please see Jobs, back page

Ferry workers face penalties

By ED SCHOENFELD

THE JUNEAU EMPIRE

State officials have fired, suspended or reprimanded 26 ferry workers accused of falsely claiming Alaska residency.

The state is seeking to collect about \$800,000 in back wages from the workers, who earned extra pay based on residency claims, said labor relations spokeswoman Mila Doyle.

"We've just begun working out repayment schedules. I don't expect most of these people will cut us a lump sum," Doyle said today.

Unions representing ferry workers called the residency investigation a "witch hunt" and predicted it would end up in court.

"Every residency law the state has ever passed has been struck down by the federal courts, every one. This one will also probably see the same fate," said Greg O'Claray of the Marine Engineers Beneficial Association, which represents about 75 licensed ferry engineers.

The approximately 700 ferry workers who live in Alaska make about 20 percent more than those who live out of state. The difference can run \$500 to \$1,100 a month per worker under payments known as the cost-of-living differential.

State officials began their investigation about two years ago by sending detailed questionnaires to workers claiming residency. About 80 were investigated, Doyle said.

The first disciplinary action was taken last summer, when five workers were fired. Most were rehired after agreeing to pay restitution and accept suspensions.

As of today, the number of workers being targeted for discipline totaled 26, Doyle said. An additional 11

Please see Ferry, back page

10/10/94

Jobs...

Continued from Page 1

personnel rules.

Not all political appointees get replaced, however, and some manage to last in their jobs throughout several different administrations.

Though it is common for outgoing administrations to help its employees with the transition, some say the Hickel administration may be going too far in its efforts to help its people.

"I just don't recall anything like this massive effort ... under way now," said David Ramseur, former spokesman for Gov. Steve Cowper, who was replaced by Hickel.

He said there were some instances where Cowper's people moved into protected jobs, but not many. State job registers were not closed when Cowper left office in 1990, so putting administration people on the job-waiting lists was not a problem.

"I do not recall that it was like a coordinated effort to try to stuff political appointees into classified positions," Ramseur said.

But Jerry Reinwand, a Juneau businessman who worked on gubernatorial transitions in 1982 and 1986, said Hickel's staff has done a good job preparing for a turnover.

"I think it's a remarkable effort," he said.

Reinwand was chief of staff for Gov. Jay Hammond when he left office and worked on the transition team when Cowper took office.

"It's one thing to plot a good transition. It's another to have the new administration listen to you," he said. "The new crowd tends to come in with a high degree of arrogance."

Administration Department Commissioner Bob Libbey said the Hickel people have been working on a transition plan for about a month. He said the work

should be finished this week.

Slate job registers essentially are waiting lists for most of the state's 1,045 work classifications. Libbey said the idea of opening up closed registers is not new. A state employees union once agreed to the same option of getting its members on closed lists, he said.

"They could have their people put on up to 10 registers that are closed," he said.

He was referring to a temporary agreement between the state and the Alaska State Employees Association in 1993.

Other than opening up closed registers for administration employees, they would get no assurances of a job, Libbey said. "They would get graded and considered with everybody else on the register," he said.

About two-thirds of the state's 15,000 to 16,000 jobs are filled through the register system. About two years ago, the state closed most of its job registers to new applicants.

Libbey said the counseling could be important because employees may have to make important financial decisions if they lose their jobs, including how to handle retirement money and what to do about medical coverage.

"People have to understand what the options are," he said.

... Usera said the administration is not going to turn partially exempt or exempt positions into protected ones on a mass scale.

"We're not playing, let's reclassify somebody's position so we can get them into a classified position and protect them," Usera said.

"We are making personnel decisions based on good public policy," she said. "We're not going to sacrifice integrity and public policy for the benefit of an individual."

Ferry...

Continued from Page 1

are under investigation but it is unclear whether any will be found in violation of residency rules, she said.

Some of the 26 were fired, some suspended for up to a month and some given a letter of reprimand. All were required to repay the state for extra wages earned since April 1, 1990.

No criminal charges will be filed against any of the workers, said state Administration Commissioner Bob Libbey, who oversees state labor relations efforts.

No efforts to collect differential payments made before 1990 are expected, Doyle said.

Some workers accepted disciplinary action and agreed to pay back wages while others challenged the allegations.

The Inlandboatmen's Union of the Pacific, which represents up to 625 ferry workers, filed an unfair la-

bor practice complaint claiming the state should have negotiated with workers before changing the definition of residency.

Union acting regional director Bob Provost said the state was unfair when it decided workers' time on the ferry could not be included in residency calculations.

"We've got guys who spend 10 months on the Bartlett and the Tustumena," said Provost, referring to ferries working Prince William Sound and Southwest Alaska waters. "If they get off the boat and they go to Mexico for two months, they're not considered residents."

Doyle said the state followed labor laws in its residency investigation.

"We don't believe we unilaterally changed the definition of residency. We believe we acted within the contractual authority we have," she said.

Leaders of the International Organization of Masters, Mates and Pilots, which represents another 70 ferry workers, did not return calls for comment.

why?
not?

Ferry workers rehired

State settles residency cases

By ED SCHOENFELD

THE JUNEAU EMPIRE

The state has rehired several ferry workers who were fired last month for collecting higher pay by falsely claiming Alaska residency.

Five workers, all apparently licensed engineers, were fired in July for residency claims that earned them up to an extra \$1,100 a month.

State labor relations spokeswoman ~~Mila Doyle~~ said some - but not all - of the five are back on the job after agreeing to accept penalties.

"Some individuals have been returned to work under a settlement agreement that includes disciplinary suspensions and full restitution," Doyle said Tuesday.

~~Doyle and other state officials~~ said confidentiality rules prohibit them from naming the workers or revealing their jobs or the name of their union. They also refused to say how many of the five are back on the job.

The workers are thought to be members of the Marine Engineers Beneficial Association, which represents about 75 licensed engineers. The union has said it is involved in resolving the dispute, and officials at the two other ferry unions have said they are not involved.

The rehired workers have agreed to repay the extra wages they earned, Doyle said.

"It's a significant amount of money so we will work with each individual to determine payback, probably through lump-sum and some payroll deductions," she said.

Doyle said confidentiality rules also prevent her from releasing the amount of money involved in individual cases. She said today the rehired workers are to pay a total of approximately \$200,000 in restitution. Doyle said it covers wages dating back to April 1, 1990.

The workers also waived their right to appeal the disciplinary action and agreed to be suspended without pay and benefits at the ferry system's convenience, she said.

4 out of 5 rehired

Usra demt

Workers...

Continued from Page 1

Workers who refused the agreement remain fired and the state will seek restitution for back wages, she said.

State officials are also investigating about 45 additional ferry workers for possible residency fraud, Doyle said.

Marine Engineers Beneficial Association spokesman Greg O'Claray also refused to comment on specifics of the rehires, saying that the information is confidential because the cases are incomplete.

O'Claray also would not confirm whether those rehired were MEBA members.

State officials have been investigating allegations of residency fraud for about two years. Most of the 800 or so ferry workers claim Alaska residency, which brings them about 20 percent higher wages than non-residents.

The largest ferry workers union, the 625-member Inland-boatmen's Union of the Pacific, has filed a grievance over the investigation, charging the state with changing its definition of residency.

DEPARTMENT OF ADMINISTRATION

DIVISION OF PERSONNEL
EQUAL EMPLOYMENT OPP

IBU never took offer
you see it was

on 47X 110201

0201

February 17, 1994

Mr. Michael Dixon
Regional Director
Inlandboatmen's Union of the Pacific - Alaska Region
231 South Franklin, Suite 201
Juneau, Alaska 99801

resolution
act.

plans to

Dear Mr. Dixon:

As you know, the State of Alaska has been engaged in settlement discussions regarding the COLD investigation with the Unions representing AMHS vessel employees. The State has reached an agreement with the MEBA on settlement provisions. I have enclosed a copy of the provisions reached between the two parties believing it may be of interest to the IBU.

In addition, I have also enclosed a list of those employees in the IBU bargaining unit currently under investigation. Please note, while the list represents an accurate account of those employees currently under investigation, as the investigation continues IBU members may be added to the list. It is certain that as the investigation continues many of the employees listed will be cleared of any allegations regarding inappropriate claiming of COLD payments.

The State will continue to conduct its investigation into this matter. Employees under investigation will be generally notified that they will be required to submit to an investigatory interview. When the State is ready to proceed with the actual interview, the employee will be contacted again and an interview time and place will be arranged. As you have requested, as much advance notice as possible will be given to the employee and the Union. Interviews will be conducted as scheduled unless an employee has compelling reasons for rescheduling. I would like to remind you that an employee's sole right to representation under law is to have another bargaining unit member present, if the employee so requests, at the time

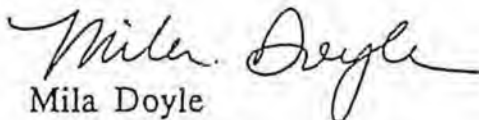
Mike Dixon
2/17/94

2

of the interview. While every attempt will be made to work with the Union so that an official IBU representative can be present, unavailability of an official IBU representative will not be considered a compelling reason to postpone the interview if an employee's Weingarten Rights can be met in another way.

I look forward to working with you to draw this investigation to a timely and effective close. Please contact me as soon as possible to discuss the terms of this settlement proposal.

Sincerely,



Mila Doyle
labor Relations Analyst

cc: Deborah Vogt, Assistant Attorney General, DOL
Pat Gullufsen, Assistant Attorney General, DOL
Jerry Bryant, Internal Auditor, OMB/DAMS
Dave Frieboth, President, IBU

- - The Union agrees to withdraw with prejudice its Unfair Labor Practice Complaint 94-277-ULP filed on January 7, 1994. A withdrawal with prejudice of the Union's ULP means that the Union would not file this ULP again before the Alaska Labor Relations Agency. This withdrawal would not preclude the Union from using the same grounds or arguments contained in 94-277-ULP as part of a grievance, arbitration or ULP filed on behalf of an individual Union member by the Union or filed by an individual Union member. The Union also agrees to withdraw its class action grievance related to this issue without precluding an individual Union member from raising the same arguments in the context of a grievance, arbitration, or ULP filed by an individual Union member or filed by the Union for or on behalf of an individual Union member.

- The State will not dismiss, nor criminally prosecute, those Members who the State claims have inappropriately claimed COLD payments provided those Members agree to the terms of this settlement by March 1, 1994. Members may choose to participate in the terms of the settlement on an individual basis. The following terms apply to those members who agree to the terms of this settlement.

- Members will make full restitution of inappropriately claimed COLD payments back to April 1, 1990. Determination of (what) constitutes inappropriately received payments will be made on a case by case basis, however, the parties recognize that an employee entering into the terms of this settlement agree that some amount of restitution is due. If an agreement cannot be reached as to the amount of COLD payments that were inappropriately received, the dispute over the repayment amount will be subject to binding arbitration pursuant to Rule 14 of the collective bargaining agreement.

- Discipline will be administered on a case by case basis. At the very least, a letter of discipline shall be placed in the employee's permanent personnel file. No employee shall receive in discipline more than a thirty (30) day suspension without pay or benefits to be scheduled over a twelve (12) month period at management's convenience. Employees do not have to admit to inappropriate conduct, but must accept the level of discipline determined to be appropriate by the Employer. However, should the Employer determine that no restitution is due, no discipline will be administered.

- - The member will discontinue collection of COLD payments until such a time as entitlement to COLD payments is clearly established to the AMHS' satisfaction. (still no criteria)
- Any future violation involving an inappropriate claim of COLD payments will result in immediate termination and may result in criminal prosecution.
- The State will work with individual Members to negotiate a reasonable and timely repayment plan. Such a plan may include, at the employee's option, payments made against accrued leave, future wages, and/or cash payments.
- The Union agrees to actively approach and encourage its members under investigation to consider the terms of this settlement offer.

INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS

PACIFIC MARITIME REGION

2819 First Avenue, #100 ★ Seattle, Washington 98121-1126 ★ Telephone: (206) 441-1070 ★ FAX: (206) 443-3752



June 6, 1994

MS. MILA DOYLE, Labor Relations Analyst
Alaska Marine Highway System, Dept. of Administration
P. O. Box 110201
Juneau, AK. 99811-0201

Dept. of Administration

JUN 9 1994

Division of Personnel / OEEC
Labor Relations Section

VIA FAX : (907) 465-2269

Dear Mila,

Enclosed is a list of Licensed Deck Officers requesting coverage by the Global Settlement:

A.

B.

Handwritten note:
M. Doyle



We have all worked very hard on this Settlement; however, we have overlooked establishing a procedure for those employees who wish to avail themselves of this Settlement. It is my feeling that the above list may be only a partial list since the employees were under the impression that the State of Alaska would contact them and give them the choice of whether or not to sign onto the Global Agreement. Hopefully we can agree to an extension of the deadline for this week, and I will attempt to personally contact any members who may be affected by the COLD issue by June 10th.

Since you will be interviewing some Licensed Deck Officers at the end of this week, it would be helpful if you would ask them [at that time] if they would like to sign onto the Agreement.

Please contact me at my home if you wish (206-778-2501), or at the office during regular business hours.

Sincerely,

CAPTAIN STEVEN J. DEMEROUTIS, Vice President
International Organization of Masters, Mates and Pilots
Pacific Maritime Region

SJD:s

- The Union agrees to refrain from filing any class action Unfair Labor Practice Complaints, class action grievances, or any other class action disputes regarding this issue. This would not, however, preclude the Union from filing a ULP or grievance on behalf of an individual Union member.

- The State will not dismiss, nor criminally prosecute, those Members who the State claims have inappropriately claimed COLD payments ~~provided those~~. Members agree to the terms of this settlement by May 16, 1994. Members may choose to participate in the terms of the settlement on an individual basis. The following terms apply to those members who agree to the terms of this settlement.

fine
as per
agreement
Miles
of State

Members will make full restitution of inappropriately claimed COLD payments back to April 1, 1990. Determination of what constitutes inappropriately received payments will be made on a case by case basis, however, the parties recognize that an employee entering into the terms of this settlement agrees that some amount of restitution is claimed by the State. If an agreement cannot be reached as to the amount of COLD payments that were inappropriately received, the dispute over the repayment amount will be subject to binding arbitration pursuant to Rule 14 of the collective bargaining agreement.

- Discipline will be administered on a case by case basis. At the very least if COLD payments are found to have been inappropriately received, a letter of discipline shall be placed in the employee's permanent personnel file. No employee shall receive in discipline more than a thirty (30) day suspension without pay or benefits to be scheduled over a twelve (12) month period at management's convenience. Employees do not have to admit to inappropriate conduct, but must accept the level of discipline determined to be appropriate by the Employer. However, should the Employer determine that no restitution is due, no discipline will be administered.

- The member will discontinue collection of COLD payments until such a time as entitlement to COLD payments is clearly established to the AMHS' satisfaction or is awarded by an arbitrator.

still no
criteria

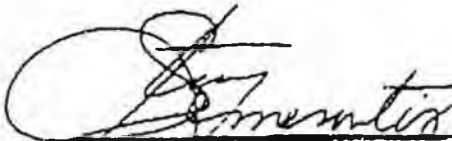
Mr. Ernest Allen Cohen
April 29, 1994

- Any future violation involving a fraudulent claim of COLD payments will result in immediate termination and may result in criminal prosecution.
- The State will work with individual Members to negotiate a reasonable and timely repayment plan. Such a plan may include, at the employee's option, payments made against accrued leave, future wages, and/or cash payments.
- The Union agrees to actively approach and encourage its members under investigation to consider the terms of this settlement offer.
- All determinations regarding an employee's eligibility for COLD payments made by the State or by an Arbitrator, shall be made in accordance with the collective bargaining agreement, the terms of this agreement, and Alaska Law including case law and statute.

For the State of Alaska:

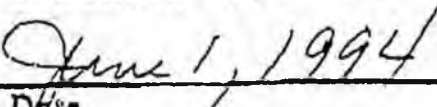
For the International
Organization of Masters, Mates &
Pilots:

Nancy Bear Usera
Commissioner



Ept. Steve Demeroutis
~~Patrolman~~ VAPMR

Date



Date

Law

Travel	\$ 1,700
Staff Time	60,747

Total \$ 62,447

Note 1: Law cannot determine Geldorf's time
Note 2: DOT paid Law \$8,000 and those dollars are not included
In the DOT costs listed here

OMB

Travel	\$ -0-
Staff Time	40,269

Total \$ 40,269

The final work began in December 1994 defined as "dispute resolution" phase and has basically involved the Department of Administration (LR).

Administration

Travel	\$ 7,129
Staff Time	45,077
Other (Late fees)	600

Total \$ 52,806

The sunk costs for this "project" as listed above are \$ 299,684.

prepared by: Chris Parce *dp*
cc: none
bc: none

COLD
Cost Avoidance
August 25, 1995

There were originally 20 cases to arbitrate and to date 4 cases have been completed, leaving 16 unsettled.

The "rule of thumb" cost for arbitration is \$2200 per day and these cases will require 23 days to arbitrate. Labor Relations has a win/loss ratio of about 50% so we would only pay approximately half these costs. The cost for continuing on at this time based on this information is as follows:

Arbitrator Cost	50,600 @50%	\$ 25,300
LR staff Time		
Art Chance 2 months		12,695
Mila Doyle 2 months		10,102
Travel (1 2day trip for 2 to Anch)		1,650
		Total \$ 49,747

In addition to these known cost there is the possibility that an action would be brought before the Supreme court and we do not know what that would cost the State of Alaska.

prepared by: Chris Parce *cp*
cc: none
bc: none

15th level

928,259
(110,000) Less forgiven
(88,000) Less collected (FARO + 1)

730,259
x 15d

109,538
88,000 Not pay back



Alaska State Legislature

REPRESENTATIVE BILL HUDSON

State Capitol
Juneau, Alaska
99801-1182
(907) 465-3744

COMMITTEES

CHAIR
Labor & Commerce
VICE CHAIR
Resources
MEMBER:
Transportation
Regulation Review
Economic Development
Task Force

February 15, 1994

Nancy Bear Usera
Commissioner
Department of Administration
P.O. Box 110200
Juneau, AK 99811-0200

Dear Commissioner Usera:

The attached packet of letters and material to and from my old friend and constituent, Ervin L. Hagerup, is proof positive that the ongoing investigation of Alaska residency has touched a raw nerve.

Erv was born and raised in Juneau. He came up through the ranks and, I believe, may be the best captain we have in the fleet. If I read him right, he feels as though he is being intimidated and perhaps threatened.

I don't want to judge his guilt or innocence, Commissioner, but I would appreciate your looking into the process. I believe Erv is now, and has been, a resident of Alaska. He does spend weeks, even months on his ship. Surely we don't discount an Alaskan's time at sea from time required for residency.

Again, Commissioner, please take a look at this and perhaps we can improve the process and still get to the cheaters.

Respectfully,

Bill Hudson

BH/db

Attachment

political consideration

RECEIVED

FEB 17 1994

STATE OF ALASKA
COMMISSIONER



WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

P.O. BOX 110200
JUNEAU, ALASKA 99811-0200
PHONE: (907) 465-2200
FAX: (907) 465-2496

March 1, 1994

The Honorable Bill Hudson
Alaska State Representative
State Capitol
Juneau, AK 99801-1182

Dear Representative Hudson:

This is in response to your letter dated February 15, 1994, regarding the Cost of Living Differential (COLD) investigation currently being conducted by the Departments of Administration, Law, Transportation and Public Facilities, and the Office of Management and Budget. I appreciate your interest in the investigation and would like to address the concerns you raised.

Let me begin by saying that I am aware that the COLD investigation has not been well accepted by some of the vessel employees working for the Alaska Marine Highway System. As you know, there are approximately 1,000 employees working aboard the ferries, some of whom feel their personal integrity has been questioned during the course of this investigation. We believe, however, that most employees share our concern that it is unfair for some to improperly take benefits to which they are not entitled. This results in an unwarranted negative impression on the entire system.

An investigation of this magnitude is difficult to conduct without controversy, and I will be the first to admit there may have been better ways to approach the problem in order to conclude the process more expeditiously. However, let me assure you that my staff are doing their level best to bring this investigation to a close in an effective and efficient manner.

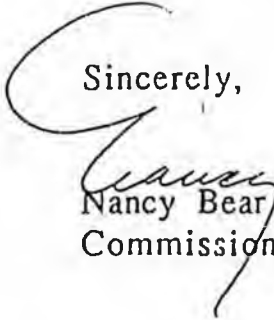
To date, 900 of the 1,000 employees have had their COLD status verified as appropriate and we are anxious to resolve the remaining outstanding cases. If Captain Hagerup desires to conclude his portion of this investigation quickly, he may contact Mila Doyle in the Labor Relations Section (465-3812) to arrange a meeting to verify his residency.

You also may be interested to know that by insuring proper allocation, the Alaska Marine Highway System is now saving over \$20,000 per month in COLD payments.

*Backup unit
- 110*

Please feel free to contact me directly if I can offer any additional information on this subject.

Sincerely,



Nancy Bear Usera
Commissioner

cc: Dianne Corso, Labor Relations Manager, DOA
Legislative Liaison
Office of the Governor

Alaska State Legislature

Senate Majority Leader
Chair, Judiciary Committee
Vice Chair, Community &
Regional Affairs



State Capitol
Juneau, Alaska 99801-1182
(907) 465-3873
Fax: (907) 465-3922

Member, State Affairs Committee
Committee on Committees
Western States Legislative Forestry Task Force
Legislative Council

352 Front Street
Ketchikan, Alaska 99901
(907) 225-8049
Fax: (907) 225-0713

Senator Robin L. Taylor

MEMORANDUM

TO: Greg Dronkert, Director
Alaska Marine Highway System

FROM: Senator Robin L. Taylor *RLT.*

DATE: 3/15/94
REF: Attached Letter

Without getting into the substance of Mr. Crueger's circumstances, please advise how much preliminary investigation is done on allegations such as this before the decision is made to send a letter such as he received.

I would also hope the AMHS will take Mr. Crueger's physical condition into account while proceeding with this matter.

Thank you in advance for your prompt reply.

since when is "health" a consideration? this is just a political consideration
high blood pressure

RECEIVED

MAR 17 1994

ALASKA
MARINE HIGHWAY SYSTEM

WALTER J. HICKEL, GOVERNOR

ADMINISTRATION
OF THE COMMISSIONER

P.O. BOX 110200
JUNEAU, ALASKA 99811-0200
PHONE: (907) 465-2200
FAX: (907) 465-2496

*political
concerns*

April 11, 1994

Senator Robin Taylor
Alaska State Legislature
State Capitol, Room C-30
Juneau, Alaska 99801-1182

Dear Senator Taylor:

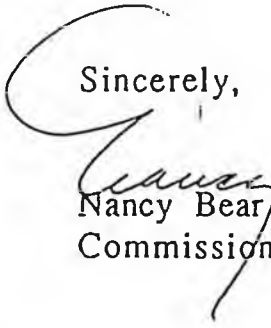
This is in response to your March 15, 1994, memorandum to Greg Dronkert regarding Mr. Richard Crueger and the Cost of Living Differential (COLD) investigation.

To answer your initial question, Mr. Crueger, along with the other Alaska Marine Highway System vessel employees receiving COLD payments, was asked to supply documentation verifying that he maintained his principle place of abode within the state of Alaska. In Mr. Crueger's case, the documentation provided was not adequate for the team reviewing individual case files to determine that he in fact lived in Ketchikan. Mr. Crueger was one of approximately one hundred employees notified on February 24, 1994, that they were under continued investigation to determine whether they were properly receiving COLD payments. On March 5, 1994, Mr. Crueger was asked to provide additional documentation to clarify his situation. He did so and on April 7, 1994, a letter was sent to Mr. Crueger indicating that he was eligible to receive COLD payments.

I fully understand that the COLD investigation has been difficult for some AMHS employees and I apologize for any problems it may have caused Mr. Crueger. However, there are employees who are abusing the system and it is critical that the State review individual cases and certify eligibility for COLD payments in a consistent manner. Mr. Crueger's prompt cooperation helped to clear up any remaining questions regarding his eligibility for COLD.

Please feel free to contact me directly if I can offer any additional information on this subject.

Sincerely,



Nancy Bear Usera
Commissioner

cc: Dianne Corso, Labor Relations Manager, DOA
Legislative Liaison
Office of the Governor

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities
Office of the Commissioner

TO: Nancy Usera
Commissioner
Department of Administration

DATE: April 5, 1994

FILE NO:

TELEPHONE NO: 465-3901

TEXT TELEPHONE: 465-3652

FAX NUMBER: 586-8365

FROM: B.A. Campbell
Commissioner

SUBJECT: COLD Investigation

Attached is an inquiry from Senator Robin Taylor regarding the COLD investigation. Since DOA is handling this, we are forwarding the inquiry to you.

I have also attached a copy of my response to Senator Taylor.

Attachments

RECEIVED

APR 7 1994

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES
COMMISSIONER'S OFFICE

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

3132 CHANNEL DRIVE
JUNEAU, ALASKA 99801-7898

TEXT: (907) 465-3652
FAX: (907) 586-8365
PHONE: (907) 465-3900

April 5, 1994

Senator Robin L. Taylor
Alaska State Legislature
State Capitol, Room C-30
Juneau, Alaska 99801-1182

Dear Senator Taylor:

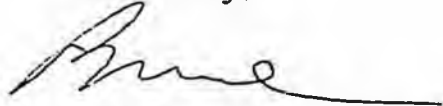
Robin

This is in response to your March 15 memo regarding a communication from Mr. Richard Crueger, an AMHS employee. Mr. Crueger's letter relates problems associated with the COLD investigations.

The Department of Administration is responsible for the COLD investigation. The Department of Transportation and Public Facilities is not involved.

Hence, I am forwarding your memo to Commissioner Usera and requesting that she respond to you.

Sincerely,



B.A. Campbell
Commissioner

cc: Nancy Bear Usera, Commissioner, Department of Administration

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-2075

April 24, 1996

The Honorable Mark Hanley
Alaska House of Representatives
Co-Chair, House Finance Committee
State Capitol, Room 507
Juneau, AK 99801

Dear Representative Hanley:

I understand that CSSCR 29 (FIN)am, "Objecting to the Department of Administration's settlement with certain employees of the Alaska marine highway system" is to be heard today by the House Finance Committee. Among other resolves, this Resolution calls upon me to appoint a special investigator to investigate whether the "actions and decisions of the Department of Administration" leading to the cost of living differential settlement violates the Executive Branch Ethics Act. Under the resolve, I am to report to President Pearce and Speaker Phillips no later than April 24, 1996, concerning this investigation.

Because this resolve would require me to ignore my statutory duties under the Ethics Act, I urge the committee to delete it from the resolution.

First, under the Ethics Act, an ethics investigation is initiated by a complaint regarding the conduct of a public officer. AS 39.52.310. No complaint against any public officer relating to this matter has been filed.

Second, the resolve requests that I appoint a special investigator. Under the Ethics Act, the attorney general must review and investigate alleged ethics violations. The Ethics Act clearly specifies the circumstances in which independent counsel must be retained to investigate an ethics complaint: when a complaint alleges a violation by "the governor, lieutenant governor, or the attorney general." AS 39.52.310(c). In these circumstances, the independent counsel is to be appointed by the Personnel Board, not the attorney general. *Id.* In this case, the ethics investigation does not appear to involve the governor, lieutenant governor, or the attorney general.

The Honorable Mark Hanley

April 24, 1996

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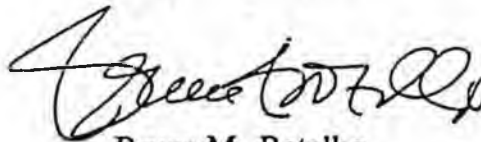
Third, Ethics Act investigations are confidential. AS 39.52.340. The resolve seems to contemplate a procedure in which the attorney general and the independent counsel participate in a public ethics investigation.

Fourth, the Ethics Act does not authorize me to present the findings of an investigation to officers of the legislature.

Finally, the Executive Branch Ethics Act does not allow a public officer to intentionally provide unwarranted treatment for any person. AS 39.52.120(a). Under the Ethics Act regulations, improperly deviating from normal procedures may constitute unwarranted treatment in violation of the statute. 9 AAC 52.050(a)(1). As I have explained, if I followed the directive of the resolve, I would be deviating from the statutory Ethics Act investigatory procedures.

Aside from these legal deficiencies, I am compelled to express my disappointment in this use of the Ethics Act. It is important that state employees and the public obey and respect the dictates of the Executive Branch Ethics Act. I implore the legislature to refrain from trying to use the Act as a partisan political tool.

Very truly yours,



Bruce M. Botelho
Attorney General

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FISCAL NOTE

REQUEST:

Revision Date: 4/9/96 Affected Agency: Dept. of Law
 Title: Objecting to DOA settlement BRU: _____
with certain employees of the Alaska Marine Highway System
 Sponsor: S (RLS) Components: _____
 Requestor: Senate Finance

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 97	FY 98	FY 99	FY 2000	FY 2001	FY 2002
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

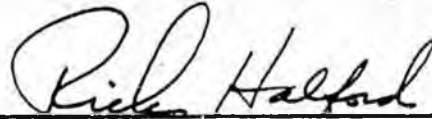
POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

Estimated FY 96 Impact: 0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

Prepared By:


 Senator Rick Halford, Co-chair
 Senate Finance Committee

Date: 4/9/96
 Phone: 465-4958

