

SB

49

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 4, 1997

FURTHER REFERRALS:

Date of Committee Action: 4/22/97

The FINANCE Committee considered:

SB 49

SENATE BILL NO. 49

SERVICE OF PROCESS ON NONRES TAXPAYERS

"An Act repealing certain filing statements and bonds for enforcement and collection of certain taxes and license fees; relating to service of process on nonresident taxpayers; and providing for an effective date."

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) Rev, 1/15/97
CED, 1/15/97

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Gene Therriault</i> Therriault			X	
<i>Mark J. Hanley</i> Hanley	X			
<i>John Mulder</i> Mulder	X			
<i>Jul N. Davies</i> Davies	X			
<i>Ben Grossendorf</i> Grossendorf	X			
<i>Frank Davis</i> Davis	X			
<i>Pete Kelly</i> Kelly	✓			

CO -
 CHAIR'S SIGNATURE *Gene Therriault* *Mark Hanley*
 Therriault Hanley

STATE OF ALASKA
1997 LEGISLATIVE SESSION

FISCAL NOTE
REPORTED OUT OF
HFC 4/22/97

Bill Version: SB 49
(S) Publish Date: 1/15/97

Revision Date: _____ Department: Commerce and Economic Development
Title: Elimination of nonresident affidavit tax bond BRU: Banking, Securities & Corporations
program _____ Component: Banking, Securities & Corporations
Sponsor: Rules by Request
Requestor: Governor COMPONENT SERIAL NO. 1233

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Willis F. Kirkpatrick, Director Phone: 465-2521
Division: Banking, Securities and Corporations Date: 10/30/96
Approved by Commissioner: William L. Hensley Date: 10/30/96
Agency: Commerce and Economic Development

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information, call the Governor's Legislative Office

REPORTED OUT OF

(S) Publish Date: 1/15/97

Revision Date: _____ Dept. Affected: Revenue
 Title: Tax Bond Repeal HFC 4/22/97 BRU Revenue Operations
 Component: Income and Excise Audit
 Sponsor: Rules Committee
 Requestor: Governor COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill would repeal requirements for nonresident taxpayers to file an annual affidavit with Department of Revenue. The affidavit requires taxpayers to estimate and post security for their tax liability for the upcoming year; however, AS 43.10.160 authorizes a waiver of security for good cause. Repeal of this requirement would reduce unnecessary work for both business and state workers. The program costs \$30,000 to administer and interest income earned on the bonds was approximately \$100,000. Staff time freed up is needed to increase our compliance work in corporate, motor fuel and fisheries taxes. New revenues from increased compliance is expected to more than offset loss of interest income. Income and Excise Audit Division has never had to file a claim against security posted under this program.

Prepared by: Paul E. Dick Phone: 465-3691
 Division: Income and Excise Audit Date: October 23, 1996
 Approved by Commissioner: Wilson L. Condon Date: 10/23/96
 Agency: Revenue

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

**DEPARTMENT OF REVENUE
INCOME AND EXCISE AUDIT DIVISION
LEGISLATION ANALYSIS
April 9, 1997**

SB 49 - Service of Process on Non-resident Taxpayers

SB 49, would repeal state statutes and regulations requiring unnecessary paperwork to be filed by nonresident corporations doing business in Alaska. Under AS 43.10.160 - 200, Nonresident Affidavit (NRA) Tax Bond Program, nonresident corporations (businesses who's official corporate registration is in another state) must file a sworn affidavit and obtain a bond to secure potential tax liabilities. This requirement results in businesses annually completing and filing forms with the state. Department staff must process and file documents as well as provide telephone assistance. This requirement was initiated in 1955 and has out lived its usefulness. Our staff do not remember a case where an NRA bond was ever used to pay delinquent taxes. Modern technology has provided many other ways to locate businesses and secure tax payments.

Section 1 of the bill amends AS 43.10.170(b). This section of statute currently appoints the Commissioner of Commerce as the agent, for all non-resident corporations, upon which the original process is served for any action or legal proceeding resulting from the taxpayer's failure to meet tax obligations. The amendment to this section deletes the tax affidavit form as a source of taxpayer address, as this form will no longer be required. Other sources of taxpayer addresses are available.

Section 2 of the bill repeals 4 sections of law which established the Nonresident Affidavit (NRA) Tax Bond Program.

Section 3 established an effective date of January 1, 1998.

Floor Action

SB 49 passed the Senate April 3, 1997, 19 Yeas - 0 Nay.

Committee Action

Senate Labor & Commerce - February 12 hearing. Billed was moved out with 4 do pass recommendations.

Senate Judiciary - March 27 hearing. Billed was moved out with 3 do pass recommendations.

House Labor & Commerce - April 4 hearing on companion bill HB 72. Billed was moved out with 5 do pass and 1 NR recommendation.

**ALASKA DEPARTMENT OF REVENUE
INCOME AND EXCISE AUDIT DIVISION**

NONRESIDENT AFFIDAVIT (NRA) TAX BOND PROGRAM SHOULD BE DISCONTINUED

OVERVIEW Senate Bill 49

NRA Bond program (AS 43.10.160 - 200) began in 1955 because: (1) the majority of nonresident businesses and workers had no security or property physically located in the state which could be attached to enforce the payment of state taxes and license fees; (2) these nonresidents leave the state for varying periods, making the recovery of state taxes and license fees difficult. Every corporation not registered with Alaska as their headquarters must file a sworn affidavit and obtain a bond or provide real estate, subject to tax liens, to secure potential tax liabilities. Current technologies have made it easier for the Department to locate businesses and enforce the collection of taxes without the need for the bond program.

- Alaska is the only state that still imposes a tax bonding requirement on nonresident corporations. All 49 states were contacted; a few did have such a requirement, but abolished it because of discrimination issues.
- Approximately 2,011 affidavits were filed during FY96. The department spends approximately 800 hours administering the program. This time should be refocused to other tax programs, compliance work (i.e., corporate, fish, motor fuel) to increase revenue recovery.
- If challenged, the bonding program may be deemed discriminatory under the Equal Protection or Commerce Clause of the U.S. Constitution. Many taxpayers have told us this over the phone; Supreme Court decisions are replete with cases challenging taxes that draw lines between in-state and out-of-state corporations.
- The program is unproductive for business and staff because it has no real benefit. Taxpayers go through the efforts of obtaining a bond, completing the forms and filing, and also make estimated tax payments. Staff must maintain a file of documents and provide telephone assistance, even though bonds are never used as a tax collection tool.
- Staff of Income and Excise Audit do not remember a case where a bond was used to pay a delinquent tax lien.
- The requirement projects Alaska business environment as unfriendly to nonresident corporations. Many taxpayers have complained over the phone that the effort to meet our requirements is excessive considering the amount of business they do in the state. Eliminating this program helps achieve the Governor's goal of showing that the State of Alaska is "open for business". The corporations subject to this program are providing jobs to Alaskans.
- In 1996, \$2,119,584 was prepaid by 239 corporations. Interest earned was approximately \$58,000. The state does get revenue from this program, but the cost and work imposed on nonresident corporations is not justified. Also revenues recovered from the increased compliance effort would offset any revenue loss.

RECOMMENDATION

Discontinue the requirement for nonresident taxpayers to post a tax bond. Corporations tend to maintain permanent offices in Alaska and honor their tax liabilities due to SEC regulations, licensing requirements and audit procedures. The Department of Labor has its own bonding requirements, and fish processors, the most volatile taxpayers, are required to provide a specific surety bond under AS 44.25.040. In addition to repealing the statute six pages of regulations, 15 AAC 10.10 - 70 would be rescinded.

TONY KNOWLES
GOVERNOR

P O Box 110001
Juneau, Alaska 99811 0001
(907) 465-3500
Fax (907) 465 3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 15, 1997

The Honorable Mike Miller
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1132

Dear President Miller:

Much of my effort in advertising Alaska as "open and ready for business" includes removing unnecessary barriers to doing business in our state. This bill does just that. It discontinues our requirement that nonresident businesses file a bond or other security with the Department of Revenue -- a requirement, I must note, that makes Alaska unique among all 50 states. In this area, I'd rather join the norm than be different.


The bonding requirement, with a minimum \$1,000 bond, was enacted in 1955 to ensure the collection of state taxes and license fees from nonresident businesses which have little security or property in the state. It may have made sense back then when it was hard to find people if they abruptly closed up shop and left the state with a tax debt. But modern technology has fixed that problem.

Many taxpayers now complain the bonding and related filing requirements are excessive considering the amount of business they do in the state. Moreover, no one in the Department of Revenue can recall a case where a bond was actually used to pay a delinquent tax lien; the department has other means of ensuring that tax payments are made.

In fiscal year 1995, more than 2,000 corporations had to fill out lengthy paperwork and file these bonds. If the program is eliminated, the time the state spends on processing all these forms can be redirected toward expanded tax compliance work which would result in increased revenue to the state.

I submitted this same proposal last year to the legislature where it received much support. It passed the Senate as well as every committee of referral in the House of Representatives. The non-resident tax bond program serves only to discourage business in Alaska. It's time to take it off the books.

Sincerely,


Tony Knowles
Governor

STATE OF ALASKA

DEPARTMENT OF REVENUE

TONY KNOWLES, GOVERNOR

INCOME AND EXCISE AUDIT
P. O. BOX 110420
JUNEAU, AK 99811-0420
FAX. (907) 465-2375

April 9, 1997

The Honorable Gene Therriault
Alaska State Legislature
House Finance Committee
State Capitol, Room 511
Juneau, AK 99801-1182

RE: Senate Bill 49, Service of Process on Nonresident Taxpayers

Dear Chairman Therriault:

SB 49, would repeal state statutes and regulations requiring unnecessary paperwork to be filed by nonresident corporations doing business in Alaska. This bill has been referred to your committee and I respectfully request you schedule the legislation for a hearing.

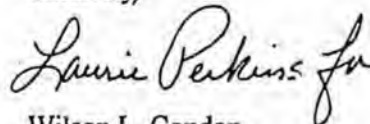
Under AS 43.10.160 - 200, Nonresident Affidavit (NRA) Tax Bond Program, nonresident corporations (businesses who's official corporate registration is in another state) must file a sworn affidavit and obtain a bond to secure potential tax liabilities. This requirement results in businesses annually completing and filing forms with the state. Department staff must process and file documents as well as provide telephone assistance. This requirement was initiated in 1955 and has out lived its usefulness. Our staff do not remember a case where an NRA bond was ever used to pay delinquent taxes. Modern technology has provided many other ways to locate businesses and secure tax payments.

This issue has been discussed in numerous Senate and House committees this year and received unanimous support. Senate Bill 49 passed the Senate on a vote of 19 Yeas - 0 Nay. HB 72 is the companion bill and was heard in (H) L&C and passed with 5 DP and 1 NR.

Our conversations with the both the Anchorage and Alaska State Chamber of Commerce has gained their support. Enclosed is an overview providing more details on repeal of the program. In addition to repeal of statute 5 pages of regulations would be repealed.

SB 49 simplifies the process for doing business in Alaska. I look forward to working with you and request that your committee hear this bill.

Sincerely,



Wilson L. Condon
Commissioner

Enclosure
97-031

HB72FIN.WPD