

Bill

155

<TARGET><BILL>HB 155</BILL><SUBJECT>HB
155</SUBJECT><COMM>SF IN27</COMM></TARGET>

SENATE FINANCE COMMITTEE REPORT

DATE: 4/14/11

FURTHER:
DATE TURNED
IN TO OFFICE: _____

Finance Committee considered CS FOR HOUSE BILL NO. 155(L&C)
HB 155 PUBLIC CONSTRUCTION CONTRACTS

"An Act relating to the applicability of prevailing wage rates to public construction contracts; and, with regard to public construction contracts, relating to notifications, bonding notifications, filings, notices, primary contractors, final payments, penalties, advertised specifications, required contract provisions, terminations, lists of violating contractors, and remedies."

and recommends:

- be replaced with SCS _____ (_____) Same Title Technical Title Change New Title/SCR No. _____
- adopt previous SCS _____ (_____) Same Title Technical Title Change New Title/SCR No. _____

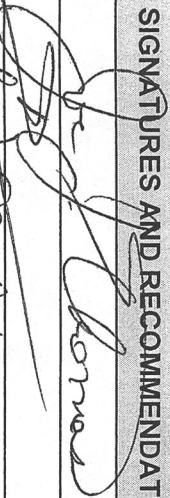
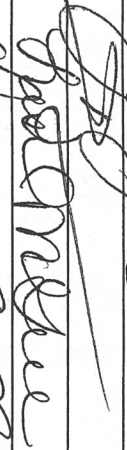

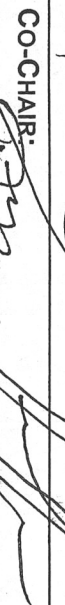

- attached amendment(s) _____ Letter of Intent
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LEG
CED	LAW
COR	LWF
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
LWF				1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Thomas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Melville	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Thomas	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CO-CHAIR: 		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CO-CHAIR: 		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

FISCAL NOTE

**STATE OF ALASKA
2011 LEGISLATIVE SESSION**

Fiscal Note Number 1
 Bill Version CSHB 155(L&C)
 (H) Publish Date 3/23/11

Identifier (file name) HB155CS-DOLWD-LSS-03-21-11 Dept. Affected Labor and Workforce Development
 Title An Act relating to public construction contracts. Appropriation Labor Standards and Safety
 Allocation Wage and Hour
 Sponsor House Labor and Commerce Committee
 Requester (H) L&C OMB Component Number 345

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2012	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants								
Miscellaneous								
TOTAL OPERATING		0.0	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

(Thousands of Dollars)

FUND SOURCE	1002 Federal Receipts	1003 GF Match	1004 GF	1005 GF/Program Receipts	1037 GF/Mental Health	Other (please identify)	TOTAL
							0.0
							0.0
							0.0
							0.0
							0.0
							0.0
							0.0
							0.0
							0.0

Estimate of any current year (FY2011) cost None

POSITIONS	Full-time	Part-time	Temporary						

Why this fiscal note differs from previous version (if initial version, please note as such)
 The prior version of this legislation would have resulted in a reduction of state general fund revenue, that is no longer the case with the changes made in the committee substitute.

Prepared by Grey Mitchell, Director Phone 465-4855
 Division Labor Standards and Safety Date/Time 3/18/2011 5:40pm
 Approved by Clark Bishop, Commissioner Date 3/18/2011
Department of Labor and Workforce Development

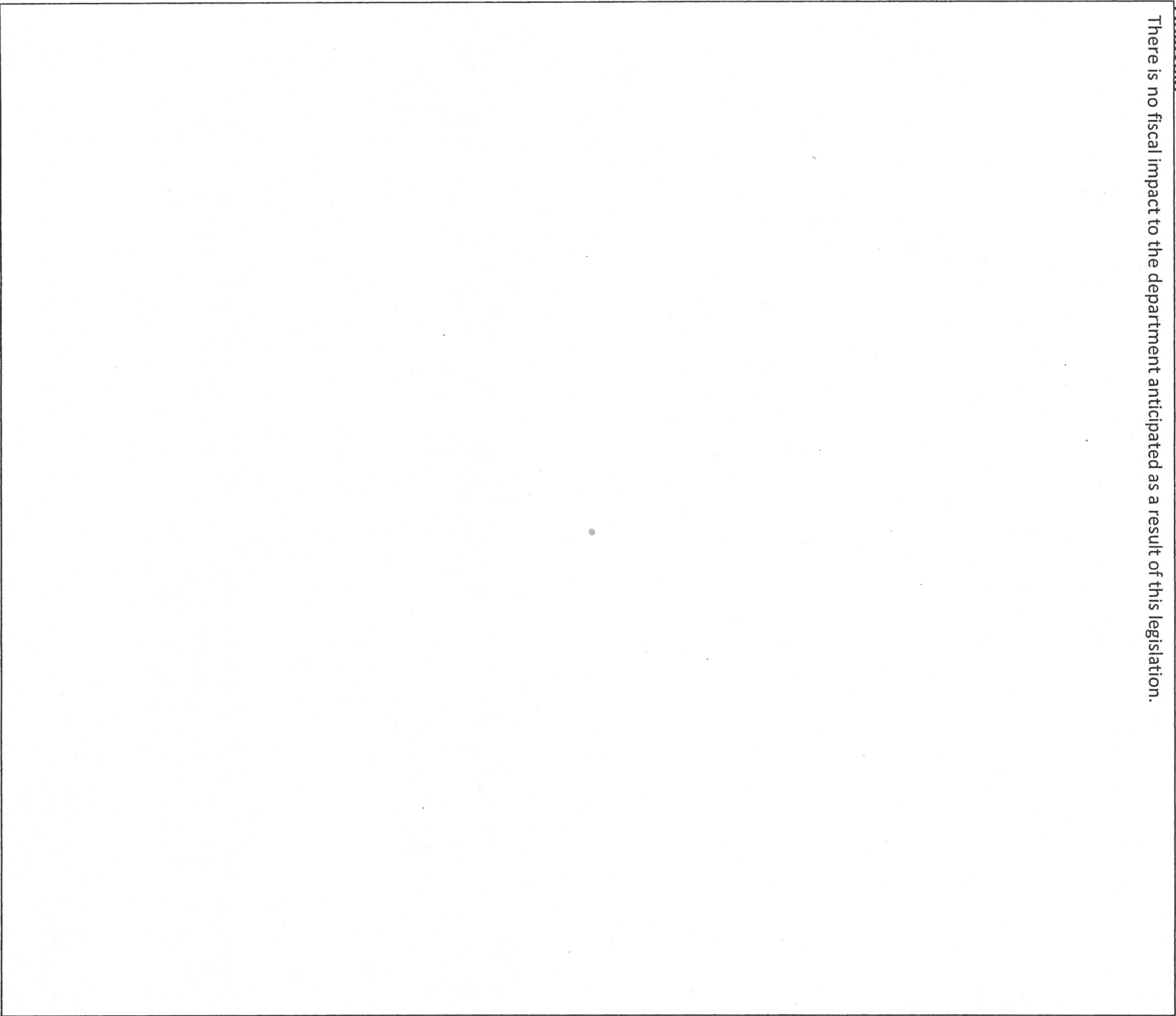
FISCAL NOTE #1

STATE OF ALASKA
2011 LEGISLATIVE SESSION

BILL NO. CSHB 155(L&C)

Analysis

There is no fiscal impact to the department anticipated as a result of this legislation.



ALASKA STATE LEGISLATURE

REPRESENTATIVE KURT OLSON

- Chair: Labor and Commerce
- Vice Chair: Rules, Administrative Regulation Review
Economic Development Trade & Tourism
- Member: Energy, Legislative Budget & Audit



Session: January - April
State Capitol, Room 24
Juneau, AK 99801-1182
Phone: 907-465-2693
Fax: 907-465-3835

Interim: May - December
145 Main Street Loop, Ste 221
Kenai, AK 99611
Phone: 907-283-2690
Fax: 907-283-2763

Official Business

Sponsor Statement CSHB 155 (L&C) - Public Construction Contracts

House Bill 155 calls for an increase to the dollar threshold that public works contracts must meet before they qualify for prevailing wages. Currently, Alaska's Little Davis-Bacon Act (LDBA) applies to public construction contracts over \$2,000. This legislation would raise the threshold to \$25,000.

Alaska's LDBA was modeled after the federal Davis-Bacon statute. The federal statute's threshold has been set at \$2,000 since 1935. A variety of Alaska specific factors and the inflationary pressures of the last 75 years make \$2,000 an inefficient threshold for implementing LDBA. House Bill 155 updates this antiquated statute to account for the unique challenges associated with construction in Alaska.

The backdrop of the federal legislation was a Lower 48 workforce that could be mobilized over road and rail systems. Much of interior and island Alaska, however, is accessible only by air taxi and barge service. For even very minor construction at remote rural sites, transportation alone can easily exceed the current \$2,000 threshold. In Alaska, merely filling 20 potholes in the Bush may mean the application of LDBA. Raising the dollar threshold gives the state more "bang" for the government "buck" in these instances.

A dollar threshold for LDBA application exists due to the wide recognition that some projects are simply too small to justify the overhead associated with LDBA compliance. For small projects requiring less skilled labor, the rigidity of LDBA and the hoops that contractors must jump through drive up the price of a bid. Not only does the administrative burden of an LDBA job push a contract ever closer to the \$2,000 mark, it discourages small, local contractors from entering bids. The modernized threshold would give rural areas the flexibility to encourage local contractors to bid on the contracts that would benefit their community. In this sense, raising the dollar threshold should be seen as an economic development issue for rural communities seeking local opportunities.

Alaska's adoption of a higher threshold would be consistent with the experience of most other states. Three fourths of the other states either have no LDBA or have thresholds much higher than \$2,000. Eighteen states do not have an LDBA. Nineteen states have established thresholds of up to \$500,000. While the thresholds vary, the overall average threshold for these 19 states is approximately \$108,000 for new construction. Only 13 states still have LDBA thresholds as low as Alaska's.

A \$2,000 threshold for the application of LDBA is inadequate in Alaska. House Bill 155 provides the upward revision that the logistics of construction in this state requires.

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Sectional Summary CSHB 155 (L&C) - Public Construction

The following is a sectional summary of CSHB 155 and is not an authoritative representation of the bill. For an authoritative interpretation, please refer to the bill itself.

- Section 1:** Specifies that the chapter only applies to public construction projects over \$25,000
- Section 2:** Specifies that contractors or subcontractors who perform work on a public construction contract in the state shall pay not less than the prevailing wage
- Section 3:** (a) Details the responsibility of the primary contractor with regard to the filing of work notice with the Department of Labor and Workforce Development and with regard to the payment of filing fees
Defines the term "contractor"
- Section 4:** (a) Relates to advertising specifications for a contract and requires that the advertisement must contain a statement of the minimum wage that is to be paid
- Section 5:** (c) Public construction contracts must contain provisions that
- 1) The employees of contractors or subcontractors must be paid unconditionally and at least once a week
 - 2) Wages must be at least the amount that was stated in the advertised specifications
 - 3) Wage scale to be paid must be posted by the contractor in a prominent place at the work site

- 4) The state or political subdivision shall withhold so much of the accrued payments as is necessary to pay laborers, mechanics, or field surveyors employed by the contractor or subcontractors the difference between
 - a. the rates of wages required by the contract to be paid, and
 - b. the rates of wages received

Section 6: States that the state disbursing officer in the case of a state public construction contract and the local fiscal officer in the case of a political subdivision public construction contract shall pay directly to laborers, mechanics, or field surveyors from accrued payments withheld under the terms of the contract the wages due laborers, mechanics, or field surveyors

Section 7: The fact that a public construction contract is entered into upon a cost-plus-a-fixed-fee basis or otherwise, without advertising for proposals, does not make 36.05.070-36.05.110 inapplicable if they are otherwise applicable to the contract

Section 8: Relates to the applicability of the Act

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Summary of Changes

CSHB155 (L&C) - Public Construction Contracts

HB155\B amended in HL&C

- Decreases dollar threshold amount from \$75,000 to \$50,000
- Corrects a drafting miscommunication that would have exempted school districts from the requirements of the bill

CSHB155\D offered in HL&C

- Title change- from broad to very specific
- Decreases dollar threshold amount from \$50,000 to \$25,000
- Removes section 8 and the definitions of "public construction" and "maintenance"

Wage and Hour Division (WHD)

Dollar Threshold Amount for Contract Coverage

Dollar Threshold Amount for Contract Coverage Under State Prevailing Wage Laws

January 1, 2011

Historical Tables

Table of Dollar Threshold Amounts for Contract Coverage Under State Prevailing Wage Laws

STATE ¹	THRESHOLD AMOUNT
Alaska	\$ 2,000
Arkansas	75,000
California	1,000
Connecticut	400,000 for new construction 100,000 for remodeling
Delaware	100,000 for new construction
Hawaii	15,000 for alteration, repair, renovation, rehabilitation, demolition, or reconstruction 2,000
Illinois	None
Indiana	150,000
Kentucky	250,000
Maine	50,000
Maryland	500,000
Massachusetts	None
Michigan	None
Minnesota	25,000 where more than one trade is involved 2,500 where a single trade is involved
Missouri	None
Montana	25,000
Nebraska	None
Nevada	100,000
New Jersey	2,000 14,187
	50,000 – aggregate cost for maintenance and repair
New Mexico	60,000
New York	None
Ohio	78,258 for new construction 2/ 23,447 for remodeling 2/
Oregon	50,000

Pennsylvania	25,000
Rhode Island	1,000
Tennessee	50,000
Texas	None
Vermont	250,000
Washington	None ^{3/}
West Virginia	None ^{4/}
Wisconsin	25,000 ^{5/}
Wyoming	25,000

Footnotes:

^{1/} Eighteen States do not have prevailing wage laws. These States are Alabama, Arizona, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, New Hampshire, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Utah, and Virginia.

^{2/} **Ohio.** Beginning January 1, 1996, and every two years thereafter, threshold amounts will be adjusted according to the change in the U.S. Department of Commerce, Bureau of the Census Implicit Price Deflator for Construction, provided that no increase or decrease may exceed 6 percent for the two-year period.

^{3/} **Washington.** A separate law applicable only to State college/university construction provides for a \$25,000 threshold amount.

^{4/} **West Virginia.** A \$50,000 threshold is applicable for projects of the West Virginia Infrastructure and Jobs Development Council.

^{5/} **Wisconsin.** For those contracts in which local governments are responsible for a minimum funding of at least \$1,000,000 in a private enterprise dominated project, then the prevailing wage rates would apply to the entire project no matter how much private funding is responsible for of the total cost of the project.

States Without Prevailing Wage Laws

Alabama - repealed in 1980

Arizona - invalidated by 1980 court decision
Repealed in referendum in 1984

Colorado - repealed in 1985

Florida - repealed in 1979

Georgia -

Idaho - repealed in 1985

Iowa -

Kansas - repealed in 1987

Louisiana - repealed in 1988

Mississippi -

New Hampshire - repealed in 1985

North Carolina -

North Dakota -

Oklahoma - invalidated by 1995 court decision

South Carolina -

South Dakota -

Utah - repealed in 1981

Virginia -

Division of Communications

Wage and Hour Division

U.S. Department of Labor

This document was last revised in December 2010.

Introduced by: Knopp, Mayor
Date: 12/07/10
Action: Adopted
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2010-097**

A RESOLUTION SUPPORTING STATE LEGISLATION THAT WOULD AMEND THE ALASKA LITTLE DAVIS BACON ACT TO INCREASE THE MINIMUM AMOUNT OF CONTRACTS SUBJECT TO THE ACT FROM \$2,000 TO \$50,000 AND TO DEFINE MAINTENANCE PROJECTS, WHICH ARE NOT SUBJECT TO THE ACT

WHEREAS, the Alaska Little-Davis Bacon Act (ALDBA), codified at Alaska Statutes 36.05.010 - .900, requires contractors and subcontractors that work on public construction contracts totaling more than \$2,000 to pay the prevailing wage rates and fringe benefits for similar work and to comply with significant paperwork and reporting requirements; and

WHEREAS, the ALDBA was originally enacted at least 38 years ago, and the Territory of Alaska was subject to a similar provision dating back to 1931; and

WHEREAS, establishing this minimum \$2,000 threshold for application of the ALDBA envisions a point where the small size of a project does not justify the reporting and other paperwork costs associated with compliance; and

WHEREAS, in most rural Alaskan communities no public construction project costs less than \$2,000 due to mobilization costs, which means fewer public construction projects are bid out as this higher cost of complying with the ALDBA leaves less public funds available for other projects; and

WHEREAS, increasing the floor for application of the ALDBA to \$50,000 would be consistent with the original reason for placing a floor on the application of this act, which was to allow smaller public construction projects to proceed without the additional costs and burden of the extensive paperwork and reporting requirements associated with complying with the ALDBA; and

WHEREAS, the public interest would best be served by increasing the floor of the LDDBA to \$50,000 as it would enable small and large communities local governments to complete small construction projects at a lower cost rather than postponing them indefinitely until they are able to obtain sufficient funds to comply with the ALDBA requirements; and

WHEREAS, while the ALDBA applies to public construction contracts it does not govern contracts for public maintenance, and the act does not define public maintenance or clarify what projects are considered maintenance rather than construction; and

WHEREAS, amending the ALDBA to clearly define public maintenance as distinguished from public construction would help to minimize conflicts and confusion regarding the application of the ALDBA, decreasing costs incurred by all involved parties and agencies; and

WHEREAS, during its meeting of November 19, 2011, the Alaska Municipal League adopted AML Resolution 2011-018, requesting the state legislature increase the ALDBA floor to \$50,000 and to define public maintenance in contrast with the definition of public construction in this ALDBA; and

WHEREAS, adoption of these proposed amendments would be consistent with the experiences of most other states, as 18 states have repealed their state Little Davis Bacon Acts and most of the remaining states have modified their Little Davis Bacon Acts to increase the floor or clarify the definitions of construction versus maintenance;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

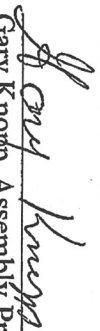
SECTION 1. The Kenai Peninsula Borough Assembly strongly urges the state legislature to amend AS 36.05.070 to increase the minimum threshold for application of the Little-Davis Bacon Act from \$2,000 to a minimum of \$50,000 per project and to define public maintenance as distinguished from public construction.

SECTION 2. That copies of this resolution shall be provided to the Borough's Legislative Delegation including Senators Con Bunde, Al Kookesh, Thomas Wagoner, Gary Stevens, Senator-Elect Catherine Giessel and Representatives Woodie Salmon, Mike Hawker, Kurt Olson, Mike Chenault, Paul Seaton, and Representative-Elect Alan Dick.

SECTION 3. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF DECEMBER, 2010.

ATTEST:



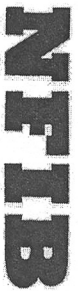
Gary Knopp, Assembly President



Johni Blankenship, Borough Clerk



Yes: Haggerty, Johnson, McClure, Murphy, Smalley, Smith, Tauriainen, Knopp
No: None
Absent: Pierce



The Voice of Small Business®

ALASKA

February 28, 2011

The Honorable Kurt Olson
Alaska State Representative
State Capitol Building
Juneau, Alaska 99801-1182

RE: House Bill 155

Dear Representative Olson,

On behalf of the National Federation of Independent Business/Alaska, I wish to express our support for House Bill 155. The National Federation of Independent Business is the largest small-business advocacy group in the Alaska.

House Bill 155 increases the threshold for imposition of Little Davis Bacon prevailing wages to contracts over \$50,000.

NFIB believes that this increase will provide increased opportunity for small businesses to win contracts with public agencies. We also believe it will assist in reducing costs for public agencies.

Given that the current dollar level has its in a 1930s federal law, it is certainly time to increase the threshold.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Dennis L. DeWitt".

Dennis L. DeWitt
Alaska State Director



ALASKA STATE HOMEBUILDERS ASSOCIATION

February 22, 2011

Representative Kurt Olson
State Capital Building
Juneau, Alaska 99801-1182

Re: Support of HB-155

Representative Olson

On behalf of the ASHBA (Alaska State Home Building Association) we write you this letter stating our support for HB-155 (An Act relating to public construction contracts).

The ASHBA is an organization that works and operates in the private and light commercial sector of the construction industry. The association currently has 700 plus members working and operating throughout the State.

We feel it is the appropriate time for the introduction of HB-155, the original guidelines were instituted based on a 1935 enactment of the Davis Bacon Prevailing Wages Agreement, and it is apparent that the economic times and contractual situations have changed over the years. We feel this bill will assist the construction community in simplifying the guidelines for smaller less complicated government contracts, and will open the opportunity for competing smaller contractors to enter the market.

We appreciate you taking the time to sponsor this legislation and if you need help through testimony or other please do not hesitate to ask.

Thank you,

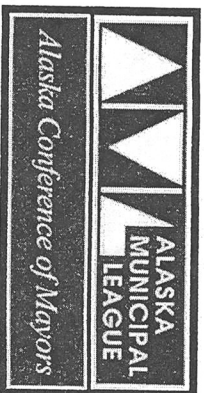
Dave Owens
President
ASHBA

Alan Wilson
Co-Chair
Legislative Committee

Paul Michelson Jr.
Co-Chair
Legislative Committee



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Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

February 23, 2011

Representative Kurt Olson
House Labor & Commerce Committee
Juneau, Alaska 99811

RE: HB155 – An Act Relating to Public Construction Contracts.

Dear Representative Olson,

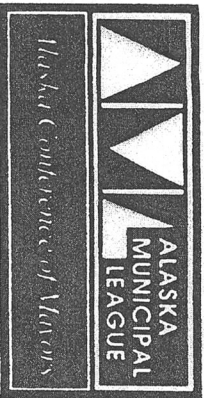
The Alaska Municipal League strongly supports HB155, which calls for an increase to the threshold that municipal contracts must meet before they qualify for prevailing wages. At our Annual Local Government Conference held in November of 2010, we passed a resolution supporting this issue. Our resolution called for raising the threshold to \$50,000 rather than \$75,000; however our intent was the same as reflected in HB155.

While the current Little Davis-Bacon threshold is \$2,000, we all realize that very little can be done with regards to public works contracts for \$2,000 or below; especially when one adds in the high prices we must pay for shipping, wages, transportation, etc. The current threshold has been in place since 1935. We believe it is time to change this threshold. Municipalities should not be required to pay prevailing wage to complete a \$3,000 job. In small, remote communities, this can be a huge detriment to getting work done in an efficient manner.

Many states have adopted a threshold of up to \$500,000. The Alaska Municipal League believes that \$50,000 will currently satisfy the need to catch up with inflation and take into account higher prices with which all Alaskans must deal. We would ask that the Legislature pass this bill and raise the threshold which requires prevailing wage.

Sincerely,

Kathie Wasserman
Executive Director



217 Second Street, Suite 200 • Juneau, Alaska 99801
Tel (907) 586-1325 • Fax (907) 463-5480 • www.akmli.org

**ALASKA MUNICIPAL LEAGUE
RESOLUTION #2011-18**

A RESOLUTION REQUESTING THE LEGISLATURE AMEND AS 36.05.070 (LITTLE DAVIS-BACON ACT) TO REQUIRE LDBA COMPLIANCE FOR PUBLIC CONSTRUCTION PROJECTS IN EXCESS OF \$50,000 AND TO DEFINE CONSTRUCTION VS. MAINTENANCE

WHEREAS, the Alaska Municipal League has supported this change for some time and it is currently listed in the Alaska Municipal League Policy Statement; and

WHEREAS, the Little Davis-Bacon Act (LDBA) was written in 1972 with a \$2,000 threshold and has never been adjusted for inflation; and

WHEREAS, LDBA is extremely detrimental to small municipalities and rural communities; and

WHEREAS, LDBA discourages smaller construction firms from participating due to the requirements mandated by the Department of Labor and Workforce Development (DOLWD); and

WHEREAS, adoption of a higher threshold would be consistent with the experiences of most other states.

NOW, THEREFORE BE IT RESOLVED that the Alaska Municipal League requests the Legislature to amend AS 36.05.070 (LDBA) to require compliance for public construction projects in excess of \$50,000 and to define construction vs. maintenance.

PASSED AND APPROVED by the Alaska Municipal League on this 19th day of November, 2010.

Signed: *Hal Smalley*
Hal Smalley, President, Alaska Municipal League

Attest: *Kathie Wasserman*
Kathie Wasserman, Executive Director, Alaska Municipal League

Jennifer Senette

From: Rep. Kurt Olson
Sent: Wednesday, February 23, 2011 1:30 PM
To: Jennifer Senette
Subject: FW: HB155

From: David Stone [mailto:stuckrock1@hotmail.com]

Sent: Wednesday, February 23, 2011 12:42 PM

To: Kathie Wasserman; Rep. Alan Austerman; Rep. Max Gruenberg; Rep. Bryce Edgmon; Rep. Mike Hawker; representative dan.saddler@legis.state.ak.us; Rep. Les Gara; Rep. Kyle Johansen; Rep. Bob Herron; Rep. Bob Lynn; Rep. Craig Johnson; Rep. Scott Kawasaki; representative eric.felge@legis.state.ak.us; Rep. Reggie Joule; representative bob.miller@legis.state.ak.us; Rep. Chris Tuck; Rep. Peggy Wilson; Rep. Charisse Millett; Rep. Mike Doogan; Rep. Steve Thompson; Rep. Bill Stoltze; Rep. Wes Keller; Rep. David Guttenberg; Rep. Lindsey Holmes; Rep. Berta Gardner; Rep. Anna Fairclough; Rep. Bill Thomas; Rep. Beth Kerttula; Rep. Neal Foster; Rep. Kurt Olson; representative alan.dick@legis.state.ak.us; Rep. Paul Seaton; Rep. Tammie Wilson; Rep. Mike Chenault; Rep. Mia Costello; Rep. Carl Gatto; Rep. Mark Neuman; Rep. Sharon Cissna; representative lance.pruitt@legis.state.ak.us; Rep. Cathy Munoz; Rep. Pete Petersen
Subject: HB155

Legislators,

Please support HB155. Currently we must pay Davis-Bacon wages on any State funded projects over \$2,000. You can not get materials into Yakutat to do any small job for less than \$2,000.

Thank you for your consideration.

Dave Stone, Mayor

City and Borough of Yakutat