

LEG. FINANCE - BILLS 1983 - 1984 1861

HB 210 cont. - HB 218

1860

Rec'd 5/17/83

STATE OF ALASKA
FISCAL NOTE

Revision Date: May 16, 1983

I. REQUEST

Bill/Resolution No.: CSHB210(SA)
Title: Relating to Payment of Interest
Sponsor: Duncan/Shultz by State
Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: All
Program Category Affected: All
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
TOTAL OPERATING	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

A. Stahl

Prepared By : *Kenneth E. Bischoff*
Division: Finance

Phone: 465-2240
Date: 5/15/83

Approved by Commissioner: Lisa Rudd
Department: ADMINISTRATION

LJR

Date: 5/15/83

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS:

Differences between Orig. HB-210 and CS for HB-210 (May 2, 1983)

1. The CS removes the stipulation that a discount must be taken when discount is at least 2% and payment is made within 10 days of receipt of goods, services or invoice, whichever is later, and substitutes, may take discount if made within the specified period of time until payment is due.
2. The CS excludes the legislative agencies and the Court System from subjectivity of this bill.
3. The CS specifies that the interest will be paid out of the paying agencies budget. The original bill specifies that the State will pay interest.
4. The substitute provides for a daily interest calculation after 30 days where the original bill specifies a monthly calculation. For example, if paid in 45 days under original bill the state would owe 2% interest, under CS state would owe approximately 3% interest.
5. The original bill specifies that interest will be paid if payment is not made within 30 days of receipt of goods and invoice, but the substitute requires payment by contract due date or within 30 days of receipt of invoice (excludes receipt of goods which may be after receipt of invoice).

This does not appear to have a significantly different impact from the analysis done versus the previous bill version HB205/210. That analysis dated March 17, 1983 is attached.

Fiscal Note: HB 205/210

March 17, 1983

IV. ANALYSIS

The Department of Administration is opposed to this Legislation, not because we disagree with the idea of the State paying its bill in a timely manner, but because we feel there are better ways to address this problem. In determining the fiscal impact on mandatory payment of interest, it is impossible to place a definite dollar amount for the cost. Many items must be taken into consideration.

First, in order to calculate what the interest cost would be, a detailed analysis would be necessary to determine what the dollar amount of bills paid in excess of 30 days might be. Readily available information does not exist. However, to show what the potential impact might be, we offer this example, making a number of assumptions.

On the assumption that the State annual budget is \$3.0 billion and that 50% of that budget represents vendor payments effected by this legislation. Further we assume that 5% of the vendor payments might be subject to penalty as defined in the Legislation. Based on these assumptions, the interest penalty could be as high as \$1,125,000.00.

Calculated as follows:

\$3,000,000,000.00	Annual Budget
X 50%	
<hr/>	
\$1,500,000,000.00	Potential Vendor Payments
X 5%	
<hr/>	
\$ 75,000,000.00	5% Subject to Penalty
X 0.15%	
<hr/>	
<u>\$ 1,125,000.00</u>	Interest Penalty for Bills Paid in Excess of 30 Days.

The preferable way to avoid penalty payments is to pay vendors within the 30 day period. This is and always has been the goal of the Department of Administration. The only effective way of doing this is either to divert current staff of the various State agencies to the effort of paying bills timely or to develop the agencies internal procedures and the Department of Administration's automated systems in order to address the payment problem. The cost to the State in providing additional staff or a bill paying effort that would pay all bills within 30 days using the current system has not be determined. The Department of Administration is currently in the process of

Fiscal Note: HB 205/210

March 17, 1983

redesigning the statewide accounting system which will include features that will improve the bill paying and tracking capabilities of the State.

While we recognize the problem of paying vendors in a timely manner is a serious matter, we should point out that for the most part, vendors are paid timely. For a 12 month period, the State paid on the average of 70,200 invoices a month. During that time, the average payment time was 29 days. The high monthly average was 33 days while the low monthly average was 24 days. During this period, only two months exceeded 30 days payment time.

In addition to the costs of attempting to improve the payment time and the potential interest penalties, we should also consider the cost of increased bureaucracy that would be involved in determining what payments would be subject to penalty, what period of time would be covered, as well as the logistics of making the interest payments, all of these would be costs to the State in time and effort.

Lastly, it should be noted that the funding of the interest payments would need to be 100% State funds. We have been advised by the U.S. Office of Management and Budget that the Prompt Payment Act (P.L. 970177) prohibits the use of Federal grant funds for the agencies that are primarily federally funded. (Copy of OMB letter attached)

Again, we are not opposed to timely payment of vendor bills but are concerned with the method of achieving that goal.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 14, 1982

MEMORANDUM

SUBJECT: Payment Practices

It has come to our attention that several States have laws, or are considering legislation, that requires the payment of interest penalties to contractors when bills are paid late.

This is to alert you to the fact that the Prompt Payment Act (P.L. 97-177) prohibits the use of Federal grant funds for the payment of such interest penalties. The act says

"(A) in no case shall an obligation to pay such interest penalties be construed to be an obligation of the United States, and

"(B) any payment of such interest penalties shall not be made from funds provided to the grant recipient by a Federal agency, nor shall any non-Federal funds expended for such interest penalties be counted toward any matching requirement applicable to that grant."

We would appreciate your alerting your staff to this prohibition to assure that the Federal Government is not charged improperly for interest penalty costs.

John J. Lordan
Deputy Associate Director
for Financial Management

RECEIVED
NOV 17 1982

CS
BACKGROUND ON SSB 210

This bill has been requested by numerous vendors that do business with the State of Alaska. The State has become notorious for late payment of invoices, forcing many private vendors to borrow money to supplement their cash flow. This reduces their profit, and in some cases even eliminates it as the profit on articles is very marginal.

The bill is patterned after a federal law entitled "The Prompt Payment Act - Public Law 97-177." The Prompt Payment Act became effective October 1, 1982 and when it was introduced in Congress, it carried 133 sponsors.

Mr. Leonard Lemon, Comptroller of the U.S. Army, ^{at Fort Greely} advised that the Prompt Payment Act has improved their payment scheduling and the payment of their accounts payable has become prompt and very routine. The U.S. Army has incorporated it in their Army Regulations.

The State has put an amount of more than \$1.2 million annual cost on its fiscal note, which should be a good indication of how much money is involved in overdue accounts. The agencies further claim that they will have to reorganize their payment system in order to fulfill the requirements of this bill. If this is so, then it should be done. This should be an indication that their method of paying accounts payable is presently inefficient and needs modifying.

The bill is needed in Alaska and will be a great help to the average small businessman that does business with state government.

ANALYSIS OF SSHB 210

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

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

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

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

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

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

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

Subsection (f) 1. defines "dispute" as noncompliance, in performance or price, with the terms of the contract, as determined by administering State officer.

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

Subsection (f) 3. defines a state agency

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

Section 3. Provides an effective date of July 1, 1983.

Introduced: 2/17/83
Referred: State Affairs
and Finance

1 IN THE HOUSE

BY SHULTZ

2

HOUSE BILL NO. 210

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to payment for purchases by the

7

state; and providing for an effective date."

8

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9

* Section 1. AS 37.05 is amended by adding a new section to read:

10

Sec. 37.05.275. PAYMENT FOR STATE PURCHASES. (a) Payment for

11

purchases of goods or services provided the state must be made within

12

30 days after the goods or services have been provided or an invoice

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received. If a seller of goods or services provided to the state

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offers a discount of at least two percent if payment in full is made

15

within 10 days of the receipt of the goods, services, or invoice,

16

whichever is later, the state agency responsible for payment of the

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bill shall make payment so as to take advantage of the discount.

18

(b) If payment for goods or services purchased by the state is

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not made within 30 days of receipt of the goods or services and re-

20

ceipt of an invoice for the purchase, the state shall pay interest on

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the unpaid balance at the rate of one and one-half percent a month

22

unless an agreement exists between the seller and the state that

23

precludes the charging of interest.

24

(c) This section does not apply

25

(1) if the cost of the goods or services purchased exceeds

26

\$500,000; or

27

(2) after a seller of goods or services receives notice

28

that the amount of the invoice or quality of the goods or services is

29

in dispute, including the reasons for the dispute, from the state

1 officer responsible for administering the contract.

2 (d) For purposes of this section "dispute" means a determination
3 by the state officer responsible for administering a contract for the
4 purchase of goods or services that the performance is not in compli-
5 ance with the terms of the contract.

6 * Sec. 3. This Act does not apply to contracts entered into before its
7 effective date.

8 * Sec. 4. This Act takes effect July 1, 1983.

Offered: 5/2/83
Referred: Finance

Original sponsors: Shultz, Duncan
and Liska

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 210 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to payment for purchases by the
7 state; and providing for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 37.05 is amended by adding a new section to read:
10 Sec. 37.05.275. PAYMENT FOR STATE PURCHASES. (a) Payment for
11 purchases of goods or services provided a state agency must be made on
12 a required payment date that is
13 (1) the date on which payment is due under the terms of a
14 contract; or
15 (2) 30 days after receipt of a proper invoice for the
16 amount of the payment due, if a specific date on which payment is due
17 is not established by contract and if the invoice contains or is
18 accompanied by documents required by the contract or purchase order.
19 (b) If a seller offers a discount from the amount otherwise due
20 for property or services in exchange for payment within a specified
21 period of time, the state agency may make payment in an amount equal
22 to the discounted price only if payment is made within the specified
23 period of time.
24 (c) If payment for goods or services purchased by the state is
25 not made within 30 days of a required payment date under (a) of this
26 section, the state shall pay interest on the unpaid balance from the
27 required payment date at the rate of one and one-half percent a month
28 unless an agreement exists between the seller and the state that
29 precludes the charging of interest.

1 (d) This section does not apply
2 (1) if the cost of the goods or services purchased exceeds
3 \$500,000; or

4 (2) after a seller of goods or services receives notice
5 from the state officer responsible for administering the contract that
6 the amount of the invoice or quality of specific goods or services is
7 in dispute and stating the reasons for the dispute.

8 (e) Interest paid under (c) of this section shall be charged to
9 the budget of the state agency which purchased the goods or services.

10 (f) In this section

11 (1) "dispute" means a determination by the state officer
12 responsible for administering a contract for the purchase of goods or
13 services that the performance or price charged is not in compliance
14 with the terms of the contract;

15 (2) payment is considered made on the date when the payment
16 is personally delivered to the seller or agent of the seller or on the
17 date the payment is mailed;

18 (3) for purposes of this section, "state agency" is as
19 defined in AS 37.05.320 and includes an organization that was created
20 by law and that is primarily and directly funded by appropriations.

21 * Sec. 2. This Act does not apply to contracts entered into before the
22 effective date of this Act.

23 * Sec. 3. This Act takes effect July 1, 1983.

COMMITTEE REPORT
SENATE

6/13/83

FURTHER:

Date: 6/16/83

Mr. President:

The Committee on Finance has had 6/13/83

meeting for discussion of the above bill.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with SCS for CS HB 210 (LTC) same title
 new title
- and recommends Do Pass
- AND attaches a "Letter of Intent" New Fiscal Note
with a House Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

*cl
fin*

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 210 (finance)
Title Relating to payment for purchases by the state
Requested by House Finance Committee Date 5/26/83

II. FISCAL DETAIL

Agency Affected all
Program Category Affected all
BRU, Program, Or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		0				

FUNDING (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS		0				
OTHER (Specify Source)		0				

POSITIONS

FULL TIME		0				
PART TIME		0				
TEMPORARY		0				

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE 5/18/83 PREPARED BY Al Adams, Chairman
AGENCY House Finance Committee
Original: Legislative Finance PHONE 465-3706
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/82)

Al Adams

Offered: 6/15/83
Referred: Finance

Original sponsors: Shultz, Duncan
and Liska

1 IN THE HOUSE BY THE LABOR AND COMMERCE COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 210 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to payment for purchases by the
7 state; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 37.05 is amended by adding a new section to read:

10 Sec. 37.05.275. PAYMENT FOR STATE PURCHASES. (a) Payment for
11 purchases of goods or services provided a state agency must be made on
12 a required payment date that is

13 (1) the date on which payment is due under the terms of a
14 contract; or

15 (2) 30 days after receipt of a proper invoice for the
16 amount of the payment due, if a specific date on which payment is due
17 is not established by contract and if the invoice contains or is
18 accompanied by documents required by the contract or purchase order.

19 (b) If a seller offers a discount from the amount otherwise due
20 for property or services in exchange for payment within a specified
21 period of time, the state agency may make payment in an amount equal
22 to the discounted price only if payment is made within the specified
23 period of time.

24 (c) If payment for goods or services purchased by the state is
25 not made within 30 days of a required payment date under (a)(1) of
26 this section or on the required payment date specified in (a)(2) of
27 this section, the state shall pay interest on the unpaid balance from
28 the date of receipt of the invoice for the goods or services at the
29 rate of one and one-half percent a month unless an agreement exists

1 between the seller and the state that precludes the charging of inter-
2 est.

3 (d) This section does not apply

4 (1) if the cost of the goods or services purchased exceeds
5 \$500,000; or

6 (2) to payment for any specific goods or services in dis-
7 pute after a seller of goods or services receives notice from the
8 state official responsible for authorizing payment for goods and
9 services that the amount of the invoice or quality of specific goods
10 or services is in dispute and stating the reasons for the dispute.

11 (e) Interest paid under (c) of this section shall be charged to
12 the budget of the state agency which purchased the goods or services.

13 (f) In this section

14 (1) "dispute" means a determination by the state official
15 responsible for authorizing the payments for the purchase of goods or
16 services that the performance or price charged is not in compliance
17 with the terms of the contract or purchase order;

18 (2) payment is considered made on the date when the payment
19 is personally delivered to the seller or agent of the seller or on the
20 date the payment is mailed;

21 * Sec. 2. This Act does not apply to contracts entered into before the
22 effective date of this Act.

23 * Sec. 3. This Act takes effect October 1, 1983.

From Shultz 6/16/83

ANALYSIS OF SSHB 210

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

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

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

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

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

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

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

Subsection (f) 1. defines "dispute" as noncompliance, in performance or price, with the terms of the contract, as determined by administering State officer.

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

Section 3. ...

Offered: 5/17/83
For Today's Calendar

Original sponsors: Shultz, Duncan
and Liska

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 210 (Finance) am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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29 rate of one and one-half percent a month unless an agreement exists

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8 state official responsible for authorizing payment for goods and
9 services that the amount of the invoice or quality of specific goods
10 or services is in dispute and stating the reasons for the dispute.

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12 the budget of the state agency which purchased the goods or services.

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16 services that the performance or price charged is not in compliance
17 with the terms of the contract or purchase order;

18 (2) payment is considered made on the date when the payment
19 is personally delivered to the seller or agent of the seller or on the
20 date the payment is mailed;

21 (3) "state agency" has the meaning given in AS 37.05.320
22 and also includes the legislative and judicial branches.

23 * Sec. 2. This Act does not apply to contracts entered into before the
24 effective date of this Act.

25 * Sec. 3. This Act takes effect July 1, 1983.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: HB 205/210
 Title: Relating to Payment of Interest
 Sponsor: Duncan/Shultz by State
 Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: All
 Program Category Affected: All
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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TOTAL OPERATING	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No source identified by the Legislature.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Tom Haas, Acting Director
 Division: Finance

Phone: 465-2240
 Date: 3/17/83

Approved by Commissioner: Lisa Rudd
 Department: Administration

Date: 3/17/83

Distribution:

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IV. ANALYSIS

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On the assumption that the State annual budget is \$3.0 billion and that 50% of that budget represents vendor payments effected by this legislation. Further we assume that 5% of the vendor payments might be subject to penalty as defined in the Legislation. Based on these assumptions, the interest penalty could be as high as \$1,125,000.00.

Calculated as follows:

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<u> X 50%</u>	
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\$ 75,000,000.00	5% Subject to Penalty
<u> X 0.15%</u>	
<u>\$ 1,125,000.00</u>	Interest Penalty for Bills Paid in Excess of 30 Days.

The preferable way to avoid penalty payments is to pay vendors within the 30 day period. This is and always has been the goal of the Department of Administration. The only effective way of doing this is either to divert current staff of the various State agencies to the effort of paying bills timely or to develop the agencies internal procedures and the Department of Administration's automated systems in order to address the payment problem. The cost to the State in providing additional staff or a bill paying effort that would pay all bills within 30 days using the current system has not be determined. The Department of Administration is currently in the process of

March 17, 1983

redesigning the statewide accounting system which will include features that will improve the bill paying and tracking capabilities of the State.

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Lastly, it should be noted that the funding of the interest payments would need to be 100% State funds. We have been advised by the U.S. Office of Management and Budget that the Prompt Payment Act (P.L. 970177) prohibits the use of Federal grant funds for the agencies that are primarily federally funded. (Copy of OMB letter attached)

Again, we are not opposed to timely payment of vendor bills but are concerned with the method of achieving that goal.

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

7/15/83

Date: 7/27/83

Mr. Speaker:

The Committee on FINANCE has had HD 214

"An Act relating to the number of superior court judges; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

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YPHB

CHAIRMAN

Introduced: 2/21/83
Referred: Judiciary and Finance

1 IN THE HOUSE

BY CATO

2

HOUSE BILL NO. 214

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the number of superior court
7 judges; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 22.10.120 is amended to read:

10 Sec. 22.10.120. NUMBER OF JUDGES. The superior court consists
11 of 27 [26] judges, five of whom shall be judges in the first judicial
12 district, three of whom shall be judges in the second judicial dis-
13 trict, 14 [13] of whom shall be judges in the third judicial district,
14 and five of whom shall be judges in the fourth judicial district. At
15 the time of submitting the names of nominees to the governor to fill a
16 vacancy on the superior court bench, the judicial council shall also
17 designate the district in which the appointee is to reside and serve.

18 * Sec. 2. The Alaska Court System may enter into negotiations for lease
19 or rental space in Valdez for use by the superior court.

20 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
21 10.073(c).

HOUSE JOURNAL

LETTER OF INTENT
FOR
HOUSE BILL 214

It is the intent of the House Committee on Finance that the superior court judgeship in Valdez shall not be filled until the Supreme Court eliminates the Valdez district court judgeship.

Respectfully Submitted,

Al Adams, Chairman
House Finance Committee

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 214
 Title: "Superior Court Judges"
 Sponsor: Rep. Cato
 Requestor: House Judiciary Committee

II. FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: Adm. of Justice
 BRU, Program of Subprogram(s) Affected: Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY.87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	15.0	15.9	16.9	17.9	19.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	15.0	15.9	16.9	17.9	19.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not specified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director
 Division: Administrative Services Division

Phone: 465-3672
 Date: April 5, 1983

Approved by Commissioner: Richard I. Pegues / for
Norman C. Gorsuch, Attorney General Date: April 5, 1983
 Department: Department of Law

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

HB 214
Fiscal Analysis

It is estimated that the establishment of a superior court in Valdez will increase district attorney travel to Valdez from one week each month to two weeks per month. Current annual travel expenses for Valdez are estimated at \$15,000 including witness subsistence expenses. A doubling of this effort would require an additional \$15,000 in travel funds. This is the total amount being requested in this fiscal note.

Caseload statistics indicate that the Valdez area can be satisfactorily serviced from other offices until such time as the caseload warrants a full-time resident prosecutor. At the present time Valdez is being handled by our two attorneys from the Palmer office where Valdez cases represent only 20% of their total caseload.

Creation of a full service prosecutor's office at Valdez would require the addition of one Attorney V and one Legal Secretary I, as well as associated support costs for expanded office space, equipment, word processing, a small law library, and increased communications. The following additional costs would be incurred to establish such an office on a 10 month year start-up basis:

Personel Services	94.2
Travel	7.5
(single time transfer cost)	
Contractual	10.0
(expanded office space & communications)	
Commodities - on-going	4.0
Commodities - single time	6.0
Equipment - single time	17.5
Total	<u>\$139.2</u>

HB 214
Analysis

This bill would establish a superior court judge position in Valdez, Alaska. The prosecution of criminal cases in Valdez is currently handled through the maintenance of a small office staffed by a paralegal in Valdez, and the services of an attorney from the District Attorney's office in Palmer. An assistant district attorney now travels to Valdez approximately once a month, and stays there for about one week. If a superior court judge were permanently assigned to Valdez, it is estimated that the increased workload would require that this assistant district attorney travel to Valdez twice a month for about a week each time.

Caseload statistics indicate that the Palmer District Attorney's office can satisfactorily service the Valdez area through periodic visits. Some members of the Valdez community have expressed a desire for a fully staffed district attorney's office located in their area, however. At a minimum, the opening of a complete district attorney's office in Valdez would require the addition of one full-time prosecuting attorney, one full-time secretary, more office space, and basic legal research materials.

from House Judiciary

April 8, 1983

HB 214--By Rep. Cato

Statistics phoned in from Anchorage today:

In the past 16 months, to date, there have been 9 trips from Anchorage by Superior Court judges to hold court sessions in Valdez and Cordova. (Four trips to Cordova, Five to Valdez)

Five different Superior Court judges of Anchorage were involved in handling the nine trips.

Total number of days scheduled for them was 36 working days, although one of the 5-day schedules was canceled, making 31 actual days expended by a judge away from Anchorage.

For May, June & July, 1983, there are three five-day trips scheduled, two to Valdez and one to Glennallen, for a total of 15 projected work days. (These will be handled by Judge Cutler, out of Palmer).

STATE OF ALASKA
FISCAL NOTE

Revision Date 1983

I. REQUEST
 Bill/Resolution No.: HB 214
 Title: Number of Superior Court Judges
 Sponsor: Cato
 Requestor: Judiciary & Finance

II. FISCAL DETAIL
 Agency Affected: Alaska Court System
 Program Category Affected: Justice
 BRU, Program of Subprogram(s) Affected:
 Alaska Court System

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING		21.4	21.4	21.4	21.4	21.4
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		21.4	21.4	21.4	21.4	21.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		21.4	21.4	21.4	21.4	21.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Robert G. Fisher, Fiscal Officer
 Division: Alaska Court System, Administration

Phone: 264-0561
 Date: 3/31/83

Approved by Commissioner:
 Department:

Date:

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

3/8/83

FY 84 COST OF IMPLEMENTING HB 214

PERSONNEL SERVICES:

Salary (Superior Court Judge - Valdez)	\$ 82,368
Benefits (Retirement, variable & fixed)	<u>80,129</u>
Total Cost of Superior Court Judge	\$162,515
Less: Budgeted funds for existing District Court Judge position.	<u>141,157</u>
Net cost of upgrading Valdez court to superior court level.	<u>\$ 21,358</u>

ANALYSIS:

This bill would upgrade the district court judge position in Valdez to the superior court level. The fiscal impact is limited to the increased costs of salary and benefits. There appears to be adequate clerical support in Valdez at the present staffing level.

While it would be beneficial to the court to add a law clerk (\$38,000/year total cost) this is not requested at this time.

The following individuals are expected to testify on HB
214:

Representative Bette Cato (or staff), prime sponsor

A representative of the Alaska Court System

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 214 Date on Bill: 2-21-83
 Title: "An Act relating to the number of superior court judges;..."
 Sponsor: Cato
 Requestor: House Judiciary

1. Estimated fiscal impacts on: No fiscal impact is anticipated.

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	0	0	0	0

b. Revenues:

Revenue				
---------	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Francis C. Allan G.C.C. Phone: 269-5691
 Division: Alaska State Troopers Date: 2-24-83
 Approved by Commissioner: [Signature] Date: 3-1-83
 Department: Department of Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

cc

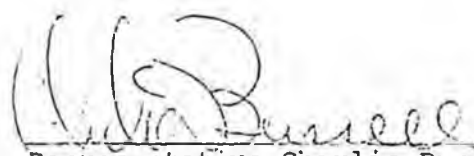
HOUSE BILL NO. 214

LETTER OF INTENT

HOUSE JUDICIARY COMMITTEE

April 8, 1983

It is the intent of the House Committee on Judiciary that the superior court judgeship in Valdez shall not be filled until the Supreme Court eliminates the Valdez district court judgeship.



Representative Charlie Russell
Chairman, Committee on Judiciary

Introduced: 2/21/83
Referred: Judiciary and Finance

1 IN THE HOUSE

BY CATO

2

HOUSE BILL NO. 214

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the number of superior court
7 judges; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 22.10.120 is amended to read:

10 Sec. 22.10.120. NUMBER OF JUDGES. The superior court consists
11 of 27 [26] judges, five of whom shall be judges in the first judicial
12 district, three of whom shall be judges in the second judicial dis-
13 trict, 14 [13] of whom shall be judges in the third judicial district,
14 and five of whom shall be judges in the fourth judicial district. At
15 the time of submitting the names of nominees to the governor to fill a
16 vacancy on the superior court bench, the judicial council shall also
17 designate the district in which the appointee is to reside and serve.

18 * Sec. 2. The Alaska Court System may enter into negotiations for lease
19 or rental space in Valdez for use by the superior court.

20 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
21 10.070(c).

Introduced: 2/21/83
Referred: Judiciary and Finance

1 IN THE HOUSE

BY CATO

2

HOUSE BILL NO. 214

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act relating to the number of superior court
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10.070(c).

STATE OF ALASKA
FISCAL NOTE

Revision Date 1983

REQUEST
Bill/Resolution No.: HB 214
Title: Number of Superior Court Judges
Sponsor: Cato
Requestor: Judiciary & Finance

II. FISCAL DETAIL
Agency Affected: Alaska Court System
Program Category Affected: Justice
BRU, Program of Subprogram(s) Affected:
Alaska Court System

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING		21.4	21.4	21.4	21.4	21.4
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		21.4	21.4	21.4	21.4	21.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		21.4	21.4	21.4	21.4	21.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Robert G. Fisher, Fiscal Officer
Division: Alaska Court System, Administration

Phone: 264-0561
Date: 3/31/83

Approved by Commissioner: _____
Department: _____

Date: _____

Distribution:

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3/8/83

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STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

REQUEST

Bill/Resolution No.: HB 214
 Title: "Superior Court Judges"
 Sponsor: Rep. Cato
 Requestor: House Judiciary Committee

II. FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: Adm. of Justice
 BRU, Program of Subprogram(s) Affected: Prosecution

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FEDERAL FUNDS						
OTHER (Specify Source)						

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	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not specified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director

Division: Administrative Services Division

Phone: 465-3672

Date: April 5, 1983

Approved by Commissioner: Richard I. Pegues / for
Norman C. Gorsuch, Attorney General

Department: Department of Law

Date: April 5, 1983

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HB 214
Fiscal Analysis

It is estimated that the establishment of a superior court in Valdez will increase district attorney travel to Valdez from one week each month to two weeks per month. Current annual travel expenses for Valdez are estimated at \$15,000 including witness subsistence expenses. A doubling of this effort would require an additional \$15,000 in travel funds. This is the total amount being requested in this fiscal note.

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HB 214
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April 8, 1983

HB 214--By Rep. Cato

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from House Judiciary

April 8, 1983

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For May, June & July, 1983, there are three five-day trips scheduled, two to Valdez and one to Glennallen, for a total of 15 projected work days. (These will be handled by Judge Cutler, out of Palmer).

COMMITTEE REPORT HOUSE

FURTHER:

2/25/83

Date: 3/9/83

Mr. Speaker: (Labor & Commerce waived 2/25)

The Committee on FINANCE has had HB 218

An Act relating to the Board of Marine Pilots.

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 218 same title
 new title
- and recommends do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Sam Vestergaard

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

Original sponsor: Labor and Commerce Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 218 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Board of Marine Pilots; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 08.03.010(c)(12) is amended to read:

10 (12) Board of Marine Pilots (AS 08.62.010) -- June 30, 1987

11 [1983].

12 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
13 10.070(c).

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 218 Date on Bill: February 21, 1983
 Title: "An Act relating to the Board of Marine Pilots."
 Sponsor: Labor and Commerce Committee
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	0	0	0	0

b. Revenues:

Revenue				
---------	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions: This bill would continue the existence of the Board of Marine Pilots to June 30, 1987 and would provide no additional impact on the department, or the board, if this legislation is passed.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: *Darrell Miller* Phone: 465-2535
 Division: Occupational Licensing Date: February 28, 1983
 Approved by Commissioner: _____ Date: _____
 Department: Commerce and Economic Development

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

BOARD OF MARINE PILOTS

Current Number of Licensees - Marine Pilots - 56
 Registered Agents - 12

FY '82

Revenues	1.8	
Expenditures	15.1	
**Personal Services		8.3
*Contractual		1.7
*Commodities		0
Board Travel and Per Diem		5.1
	TOTAL	<u>15.1</u>

FY '83 - Allocated (board travel & per diem only) - 7.5

Revenues (7/1/82 to 3/1/83)	18.8	
Expenditures	9.5	
**Personal Services (7/1/82 to 3/1/83)		5.3
*Contractual		.5
*Commodities		-0-
Board Travel and Per Diem		3.7
	TOTAL	<u>9.5</u>

FY '84 - (Board Component - Division Budget) Total 201.5
 Board of Marine Pilots Allocation 7.9

*The above items are funded in the Administration component of the division's budget.

**Personal services are 1/3 of 1 licensing examiner position.

STATE OF ALASKA

WALT FURNACE, CHAIRMAN
RICK UEHLING, VICE CHAIRMAN
JOHN COWDERY
NILLO E. KOPONEN
HUGH MALONE
JOHN RINGSTAD
RON WENDTE



POUCH V
JUNEAU, ALASKA 99811
(907) 465-3892

HOUSE LABOR AND COMMERCE COMMITTEE

February 16, 1983

Representative Joe Hayes, Speaker of House
Alaska House of Representatives
Pouch V,
Juneau, Alaska 99811

Re: Alaska State Board of Marine Pilots

Dear Mr. Speaker:

Pursuant to AS 44.66.050(a) the House Labor and Commerce Committee has held hearings regarding the above referred Board. Under AS 44.66.050(e) the Committee recommends adoption of the attached Committee Bill continuing the Board.

Specifically, the findings of the Committee of the public need for the Board as required under AS 44.66.050(c) are as follows:

AS 44.66.050(c) " A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:"

"(1) the extent to which the board, commission or program has operated in the public interest;"

The Committee finds that the Board of Marine Pilots is operating in the public interest through the regulation and licensing of marine pilots by assuring the protection of shipping, human life and property, and the environment from potential dangers caused by registered vessels sailing in Alaskan waters. and property,

"(2) the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters;"

The Committee would recommend that the Board of Marine Pilots define terms as they are used in the regulations and complete a procedures manual as soon as practicable.

"(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;"

The Committee has not found any statutory changes needed within the area regulated by the Board of Marine Pilots.

"(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;"

The Committee commends the Board of Marine Pilots on the degree of public interest and participation which has occurred.

"(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;"

The public has a chance to give input about proposed regulations, since proposed regulations have to be published in the newspaper before they can become effective. In the public notices, the public is invited to make testimony on the proposed regulations.

"(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;"

There were no complaints filed with the Office of the Ombudsman, State E.E.O., or the Attorney General's Office. Adoption of a procedures manual would identify necessary steps if complaints are filed.

"(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;"

The Committee finds that the Board of Marine Pilots requirements for licensure as a State marine pilot, the applicants be qualified to pilot vessels in the inside waters of Alaska meets the criteria.

"(8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest; and"

The Committee finds the the personnel practices of the Board of Marine Pilots to be in compliance with applicable laws and regulations.

"(9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to

better serve the interests of the public and to comply with the factors enumerated in this subsection."

See findings 1 and 6.

Pursuant to AS 44.66.050(d) the Committee recommends the following:

"(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:"

"(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;"

The Board of Marine Pilots was created under Alaska Statute 08.62 to carry out the State of Alaska's responsibility of regulating pilotage on registered vessels. The regulation and licensing of marine pilots by a State agency is necessary to assure the protection of shipping, human life and property, and the environment from potential dangers caused by registered vessels sailing in Alaskan waters.

"(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;"

The objective of the Board of Marine Pilots is to insure the competency of marine pilots responsible for vessels within the jurisdiction of the State.

"(3) an identification of any other programs having similar, conflicting or duplicate objectives;"

Responsibility for the regulation of marine pilotage is shared by the federal and state governments. The federal government, through the U.S. Coast Guard (USCG), regulates pilotage on enrolled vessels, while the individual states are given the right, in the United States Code, to regulate pilotage on registered vessels. Enrolled vessels are vessels registered in the United States and engaged in commerce between American ports; registered vessels are those vessels engaged in foreign trade. The individual states have the right to regulate pilotage on vessels engaged in foreign trade.

"(4) an assessment of alternative methods of achieving the purposes of the program;"

The Committee concluded that there was not a viable alternative method of achieving the purposes of the program.

"(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;"

The Committee believes the consequences of eliminating the board or consolidating its activities would expose shipping, the public, and the environment to the potential consequences of a maritime mishap.

"(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and"

The Committee believes that a safety record of over 2,000 dockings without mishap justifies continuing the Board of Marine Pilots.

"(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest."

The Board of Marine Pilots should work with Department of Commerce and Economic Development, Division of Occupational Licensing to ensure that public notices of examinations are sufficiently and timely advertised.

Respectfully submitted:

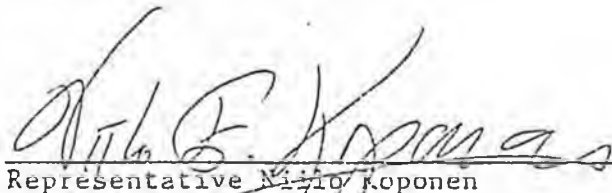


Representative Walt Furnace, Chairman



Representative Rick Uehling, Vice Chairman

Representative John Cowdery



Representative Mijo Koponen

Hugh Malone
Representative Hugh Malone

Representative John Ringstad

Representative Ron Wendte

The following individuals are expected to testify on HB 218:

Harry Traeger, Director, Division of Occupational Licensing,
Department of Commerce and Economic Development

Joe Merrill, President, Southwest Pilots Association

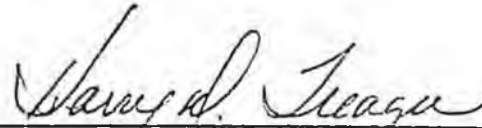
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
POSITION PAPER
SB 145; HB 218
BOARD OF MARINE PILOTS

The department has consistently agreed with the Division of Legislative Audit that the Board of Marine Pilots should continue to regulate and license the marine pilot profession. For the protection of human life and property, shipping and the environment, it is imperative that marine pilots be licensed and regulated and that vessels operating in the inside waters be required to have a licensed pilot in command.

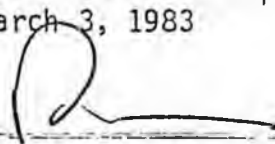
The board has continued to operate in the interest of the public, the licensees and the applicants. It has addressed issues such as the licensing vessel agents and the adoption of regulations to clarify standards and misconduct, held tariff hearings for southeast ports, reviewed and updated examinations and worked toward training for marine pilots through participation in the WICHE program.

There has been no complaint filed against this board.

The Department of Commerce and Economic Development endorses the continuation of the Board of Marine Pilots.



Harry D. Treager, Director
Division of Occupational Licensing
Department of Commerce and
Economic Development
March 3, 1983



3/9/83

Richard A. Lyon, Commissioner
Department of Commerce and
Economic Development

A PERFORMANCE REVIEW OF THE
ALASKA STATE BOARD
OF MARINE PILOTS

August 4, 1982

Audit Control Number

08-1078-83-R

Commissioner, Department of
Commerce and Economic
Development

Richard A. Lyon

Deputy Commissioners, Department
of Commerce and Economic
Development:

Edward Eboch
Vacant

Members of the
Board of Marine Pilots

Chairperson
Member
Member
Member
Member
Member
Member

Charles R. Webber
Captain Donald Oldow
Captain Jack Maroni
David V. George
Marvin Taylor
William H. Barrington
Kenneth Peavyhouse

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE
BUDGET AND AUDIT COMMITTEE

October 11, 1982

Members of the
Legislative Budget and Audit Committee:

In accordance with the intent of Title 24 and 44 of the
Alaska Statutes, the attached report is submitted for your
review.

A PERFORMANCE REVIEW OF THE
ALASKA STATE BOARD
OF MARINE PILOTS

August 4, 1982



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE AND SCOPE OF THE REVIEW

Purpose

In accordance with the intent of Alaska Statutes 24.20 .271(1) and 44.66.050 (sunset legislation), an audit of the Board of Marine Pilots was conducted to review Board activities and accomplishments to determine if the Board has operated in an effective, efficient, and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Board of Marine Pilots should be reestablished. The law currently specifies that this Board will terminate on June 30, 1983, but will continue until June 30, 1984, for the purpose of concluding its affairs.

Scope

The major areas reviewed were the Board's operations and its licensing, administration, complaint and affirmative action functions. Our review consisted of analyzing and evaluating the following:

- (1) Applicable statutes and Board regulations;
- (2) tests of records and documents of the Board and the Division of Occupational Licensing (OL), Department of Commerce and Economic Development;
- (3) interviews with OL employees;
- (4) complaints filed with OL and the Attorney General's Office; and
- (5) interviews with personnel from the U.S. Coast Guard.

ORGANIZATION AND FUNCTION

Responsibility for the regulation of marine pilotage is shared by the federal and state governments. The federal government, through the U.S. Coast Guard (USCG), regulates pilotage on enrolled vessels, while the individual states are given the right, in the United States Code, to regulate pilotage on registered vessels. Enrolled vessels are vessels registered in the United States and engaged in commerce between American ports; registered vessels are those vessels engaged in foreign trade. The individual states have the right to regulate pilotage on vessels engaged in foreign trade.

The Alaska Board of Marine Pilots was created under Alaska Statute 08.62 to carry out the State of Alaska's responsibility of regulating pilotage on registered vessels. The Statute became effective in 1970.

The Board is made up of seven members - two marine pilots, two agents or managers of vessels, two public members and the Commissioner of the Department of Commerce and Economic Development. Per the Statutes (08.62), the purposes of the Board of Marine Pilots are to license qualified pilots; to take disciplinary action against negligent or incompetent pilots; and to regulate pilotage fees.

Once a marine pilot has received a license from the Board, he is authorized to pilot registered vessels within the established boundaries of inside waters of the State. The inside waters are defined by regulations as all of Southeastern Alaska, Prince William Sound, Cook Inlet and Resurrection Bay. Alaska Statute 08.62 requires registered vessels to carry State licensed pilots when inside these boundaries. It is the pilot's job to direct a vessel safely through the inside waters; dock and undock the vessel.

To obtain an unlimited pilot's license an applicant must first obtain both a pilot's license and a master's license issued by the U.S. Coast Guard. In addition, he must perform ten to twenty dockings and undockings and pass written and oral examinations administered by the Board.

The Board also issues limited pilot's licenses and channel pilot's licenses. The holders of limited pilot's licenses may pilot vessels of 2,000 gross tons or less. Channel pilots may pilot vessels in main ship channels only, and can perform dockings and undockings under the direct supervision of pilots holding unlimited pilot's licenses. Proof of dockings and undockings is required to obtain all classes of licenses. Applicants for any of the three licenses can obtain temporary licenses by meeting all the licensure

requirements and taking a temporary license examination. A second examination is required for permanent licensure.

To obtain license renewal, a pilot must show that he has worked at least two months in each area for which he holds a license. The two months' time must have been worked within two years prior to the renewal date. License renewal is required biennially.

Another function of the Board is regulating fees for pilotage services. Any increases of the fees charged by pilots for their services must be approved by the Board.

The Board is assisted in performing its licensing and other administrative functions by staff support from the Division of Occupational Licensing (OL). OL processes applications, maintains files, answers correspondence dealing with the Board and provides other administrative support as needed by the Board. In addition, OL investigates any complaints or accident reports involving marine pilots.

REPORT CONCLUSION

In our opinion, the Board of Marine Pilots should continue to regulate and license the marine pilotage profession. The regulation and licensing of marine pilots by a State agency is necessary to assure the protection of shipping, human life and property, and the environment from potential dangers caused by registered vessels sailing in Alaskan waters.

We recommend that the Board of Marine Pilots: (a) define terms as they are used in the regulations and (b) require that a procedures manual be completed as soon as possible.

We recommend that the Department of Commerce and Economic Development, Division of Occupational Licensing: (a) ensure that public notices of examinations are sufficiently and timely advertised and (b) review their applications for licensure and delete any questions which could lead to discrimination against applicants.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Board of Marine Pilots should recommend regulatory changes to make the license renewal requirements less vague.

The regulation which sets down the requirements for the renewal of State pilot's license is vague. Alaska Administrative Code (AAC) 12.56.080 requires applicants for the biennial renewal of State pilot's licenses to submit proof of having worked at least two months in each area for which they are requesting renewal. The two months must have been worked in a licensed deck officer capacity during the two years prior to the date of renewal of the license.

The regulation is vague in that the terms and phrases used are not defined. For example, "two-months" can mean 60 days or 60 days less week-ends or one trip a week for eight weeks. "Licensed deck officer capacity" can mean any position from third mate to pilot. The regulation states the pilot must have worked "in the area for which he was licensed during the last biennial period" (emphasis added). A person licensed for all of Southeastern or Southwestern Alaska could spend two months in only one of many ports in the area and still fulfill the "in the area" requirement.

The Board should define or clarify the following terms or phrases:

- A. Does the term "licensed deck officer capacity" include or exclude time as a pilot?
- B. How does a pilot calculate the two month period required by 12 AAC 56.080(b)?
- C. What exactly is meant by "in the area"?
- D. How does the Board determine what is sufficient knowledge and experience?

Recommendation No. 2

The Board should establish formal procedures to conduct its business more effectively and promote better communication with supporting personnel.

The Board members and licensing examiner for the Board should develop a procedures manual to be used by the Board members and the examiner. Many misunderstandings between the licensing examiner and the Board members can be cleared

up this way. In addition, a procedures manual would provide continuity between licensing examiners--this would help alleviate the problems caused by the rapid turnover of license examiners.

Recommendation No. 3

The Department of Commerce and Economic Development, Division of Occupational Licensing should ensure that public notices of examinations are sufficiently and timely advertised.

The Department is required by statute to publish notices of examinations, and it is each board's responsibility to notify the Department of upcoming examinations well enough in advance to permit proper advertisement.

During our review of examination advertisements, we found that four out of six notices did not allow adequate time for individuals interested in taking the examination to submit applications within the advertised deadline. Regulations for the Board of Marine Pilots, 12 AAC 56.070(a), say in part, "all applications for examination must be submitted to the board at least 60 days before the date of examination."

Advertisements should be published early enough to allow adequate time for all interested candidates to submit applications before the required deadline.

Recommendation No. 4

The Department of Commerce and Economic Development, Division of Occupational Licensing, should review their application forms for licensure and delete any questions which could lead to discrimination against applicants.

One of the public need criteria for the continued existence of a board is the extent to which State personnel practices, including affirmative action requirements, have been complied with by the board in its area of activity.

In reviewing the applications for licensure of the Board of Marine Pilots, we noted that the applications contain questions which could lead to discrimination by Board members against applicants. The applications request information on sex, age, height, weight, color of eyes and hair. We did not find any evidence of discrimination against an applicant based on the answers to these questions. However, the potentiality for discrimination exists.

We recommend that the Board of Marine Pilots and the Division of Occupational Licensing consult with the State Equal Employment Opportunity Office or the Human Rights Commission on the makeup of the applications for licensure. These two

agencies could help the boards make a determination as to whether or not the questions asked are of a discriminatory nature. Then, any discriminatory-type questions should be analyzed to determine if a real need for the information exists. If not, the questions should be deleted.

This is a problem common to many boards. Basically the same recommendation was made in "A Performance Review of the Division of Occupational Licensing," dated October 30, 1978.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analysis of Board activities relates to the public need factors defined in the "sunset" law. This analysis is not intended to be all inclusive, but addresses those areas we were able to cover within the scope of our review.

- I. The extent to which the board, commission or program has operated in the public interest.
 1. The Board of Marine Pilots has operated in the public interest by promulgating regulations which help assure that a State-licensed marine pilot has the experience, knowledge and skill required for safe pilotage. The qualifications required for licensure as a State pilot exceed the requirements for a U.S. Coast Guard issued pilot's license as follows:
 - a. Applicant must possess a U.S. Coast Guard issued master's license;
 - b. applicant must document having completed 10 to 20 dockings and undockings under the supervision of a State licensed pilot; and
 - c. applicant must be at least 25 years old.
 2. The Board is protecting the public by providing a mechanism to help assure the protection of shipping, human lives and property and the environment from the dangers posed by vessels in Alaskan waters.
- II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

The following enhanced the performance of the Board of Marine Pilots.

1. The Governor, when making appointments to a board or commission, requests that the appointee attend at least 75% of the meetings.

From 01/30/79 through 12/15/81, three board members had 100% attendance, one had 93%, one had 90% and one had 86% attendance of all scheduled meetings.

2. The Board receives administrative services support from the Division of Occupational Licensing (DOL).
3. The Board receives legal assistance from the Attorney General's Office.
4. The Board has established a working relationship with the U.S. Coast Guard and with industry representatives.

III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

1. During the 1979 Legislative session, a bill was passed that increased the maximum fine payable by violators of the statute, which required pilots aboard registered vessels, from \$1,000 to \$5,000. This is in the public's best interest because it should have more of a deterrent effect on potential violators than the \$1,000 maximum penalty did.
2. In 1980, AS 08.62.150 was amended by adding paragraph (7) which includes a provision to allow the Board to revoke or suspend a license based on the revocation or suspension of a U.S. Coast Guard pilots license.

IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, and availability of service which it has provided.

1. The public is invited, by notices in the four major newspapers throughout the State, to the Board's meetings. However, in many cases, the notices are not published timely enough to allow a person interested in attending a meeting time to prepare for the meeting.
2. At each of the meetings of the Board there have been at least four industry representatives other than the Board members or support staff in attendance at the meetings.

V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

1. As stated in Criteria IV, Number 1, the public is invited to the Board of Marine Pilots' meetings to give input about Board business.
2. The public also has a chance to give input about proposed regulations, since proposed regulations have to be published in the newspapers before they can become effective. In the public notices, the public is invited to make testimony on the proposed regulations.

VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

1. There were no complaints filed with the Office of the Ombudsman, State E.F. O., Human Rights Commission, or the Attorney General's Office.

VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

1. Based on the requirements for licensure as a State marine pilot, the applicants should be qualified to pilot vessels in the inside waters of Alaska.
2. Since 1978, there were 24 licensed pilots who were eligible to have their licenses renewed. All 24 pilots, voluntarily did not apply for license renewal. However, licenses have been issued to 15 newly qualified applicants.

VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity of interest.

1. Applicants for State pilot's licens. must by regulation be at least 25 years old. It is recommended by the State Division of Equal Employment Opportunity (E.E.O.) that on the Application/Renewal Forms, instead of asking

for the "date of birth," the question should be; "are you at least 25 years of age?"

2. The Board of Marine Pilots Application/Renewal Forms require: place of birth, weight, height and sex. According to E.E.O. guidelines, this information is not necessary for licensing and should be deleted from the forms.

IX. The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

1. See Recommendations No. 1 through No. 4.

APPENDIXES

APPENDIX A

BOARD OF MARINE PILOTS
REVENUES COMPARED WITH EXPENDITURES
 Fiscal Year 1982
 (UNAUDITED)

Revenues (see Schedule 1 and Note 1)	\$ 10,072
Expenditures (see Note 2)	<u>51,138</u>
Excess of Expenditures over Revenues	<u>\$ (41,066)</u>

Schedule 1
Types of Revenue

<u>Revenues</u>	<u>Amount</u>	<u>Time of Collection</u>
Application and Examination Fee	\$ 10.00	With submittal of application
Temporary License Fee	\$ 50.00	With submittal of application
License Fee	\$300.00	Biennially

Note 1

Most of the revenues collected by this Board are comprised of license renewal fees. These fees (\$300) are collected once every two years, which causes revenues in one year to be much greater than the revenues collected in the next year. Therefore, the revenue figure reported above is an average of the revenues collected in fiscal years 1980 and 1981, in order to obtain an accurate representation of collected revenues.

Note 2

Expenditures includes those made by Board members, such as travel and per diem, and an allocated percentage (estimated) of total administrative expenses of OL. They do not include expenditures for the efforts of other departments, such as the Department of Law, in assisting the Board and OL.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

October 28, 1982

RECEIVED
OCT 30 1982

LEGISLATIVE
AUDIT

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

Re: Board of Marine Pilot Audit Report

We have reviewed your preliminary audit report on the Performance Review of the Board of Marine Pilots. The Department of Commerce and Economic Development concurs with your findings that the board has operated in the public interest.

Thank you for the opportunity to comment on your findings. We concur with Recommendations 1, 2 and 3 and concur, in part, with recommendation 4. We have addressed each recommendation in our response. The board is tentatively scheduled to meet on December 6, 1982 in Anchorage. If additional comments are developed at that time, we will inform your office.

The following is our immediate response to the recommendations as they appear in your report:

Recommendation #1

The Board of Marine Pilots should recommend regulatory changes to make the license renewal requirements less vague.

We concur with the recommendation that the terms "two months," and "licensed deck officer" are vague and should be further defined. The term "in the area" is further explained in 12 AAC 56.080(b)(2) by the continuation of the sentence "... for which his license was originally issued." The answer to part D of your recommendation the board determines sufficient knowledge and experience by written examination of the knowledge for the subjects listed in 12 AAC 56.070 and the oral interview administered by no less than three board members on subjects noted in 12 AAC 56.070(c)(1)(2) and (3).

Recommendation #2

The board should establish formal procedures to conduct its business more effectively and promote better communications with supporting personnel.

The department concurs in general with the idea in this recommendation. However, we have no knowledge of problems in communicating with board members. Due to the board members being in private business and unavailable for immediate responses has caused only minimum delay. Board members frequently visit the division office when in Juneau.

In 1981, a manual for the board chairpersons of all the boards and commissions was completed. A portion of the manual is for effective operations between the boards and support staff. The division is in the final drafting stage of desk manuals for the examiner staff in each licensing occupation. The final manuals should be completed by December 1982.

Recommendation #3

The Department of Commerce and Economic Development, Division of Occupational Licensing, should ensure that public notices of examinations are sufficiently and timely advertised.

We concur public notices should be made in a timely manner. The Division of Occupational Licensing has attempted to give notice throughout the State. A list of radio, television and other media outlets has been compiled, and copies of notices are sent to 82 different agencies and media offices. Additional support staff has been hired in the clerical field and this will be an assigned function under the guidance of the examiner staff. This should eliminate this problem and comply with your recommendation. Procedures have been developed for the examiner's desk manual addressing this issue.

Recommendation #4

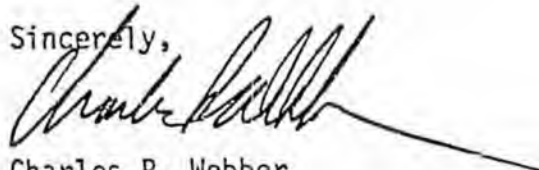
The Department of Commerce and Economic Development, Division of Occupational Licensing, should review their application forms for licensure and delete any questions which could lead to discrimination against applicants.

The department and division would agree with the theory of this recommendation. However, in practice, assurance is a must in licensing those individuals who file documentation are the same individuals who are tested. Personal data insures this. The division has experienced a situation where a son attempted to gain a professional license by use of his father's documentation. The use of personal data assisted in the discovery of this attempt. The division does and will continue to review applications to protect the applicants and delete unnecessary information requirements. As stated in your review, there have been no complaints against the board.

October 28, 1982

In closing, I would like to thank you and your staff for the constructive evaluation contained in your review, and for the opportunity to respond. Your staff should be commended on their professional approach, and the manner they go about their audit task. Their recommendations are well taken.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles R. Webber", with a long horizontal flourish extending to the right.

Charles R. Webber
Commissioner

CRW/wfs 1/10

Introduced: 2/21/83
Referred: Labor & Commerce
and Finance

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

HOUSE BILL NO. 218

2

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the Board of Marine Pilots."

7

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8

* Section 1. AS 08.03.010(c)(12) is amended to read:

9

(12) Board of Marine Pilots (AS 08.62.010) -- June 30, 1987

10

[1983].