

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1750 HLC 3/16/82 HB 849 - 3/22/82 HR 639

- 138 Sturrock went over changes needed to conform w/ fed'l law.
Passed out chart showing unemployment allocations by state.
- 195 Martin referred to fiscal notes (3); Knight said there
shd be 2 fn's. Knight said the ϕ fn ~~to~~ showed
impact on food stamps.
- 216 Martin asked Sturrock to go over bill section by section.
218 Sturrock
Sec 1 - deals w/ confidentiality of info, & release of info
to food stamp admin; ~~also extends employees~~.
- 265 Sec 2 - re unauthorized disclosure of info
- 274 Sec 3 - referred to last yrs SBSD re emp refunds
of excess fnds pd in, with interest. Want this
taken out, unless emp is late filing schedules;
and deleting redundant language.
- 305 Sec 4 - amending ratable payroll table.
- 319 Sec 5 - housekeeping; needed to include all persons
person can be disqualified fm.
- 331 Sec 6 - housekeeping; disqualifying provns; & add
that "all interested parties" can appeal (rather
than just "employee").
- 343 Sec 7 - increase in benefits.
Sturrock passed out 2 charts showing affect. @rtns
by Gardner; re inflation.

Randolph
left abt 1:40
Martin left abt 1:40 too.

Sturrock, cont'd

- 395 Sec 8 - amending duration formula for receipt of benefits.
Provides emp's w/39 wks of wk rec'd max duration,
& raises minimum duration to 18.
- 438 ~~Sec 8~~ Passed out duration chart. Gardiner had q's
abt employer costs. Discussion Gardiner, Sturrock,
Knight
- 478 Sec 9 - provn regarding deductible income; ~~redraft~~
Sturrock explained difference fm current law.
- 498 Sec 10 - completes list of disqualifying statutes
- 504 Sec 11 - clarifies able & available provision of law.
- 524 Sec 12 - recodifies 23.20.350(b)
- 546 Sec 13 - ~~to~~ federal conformity, regmt; provns for sec 6 & c.
- 599 Sec 14 - relates to labor disputes; corrects 7;ing error
in 1980 amendments.
- 637 Sec 5 - changed appeal periods to allow 15 days to appeal.
- 651 Sec 16 - adds new section re back pay awards.

Rep Dyfema had q's & asked for an example of
such a set'n.

Side B

000

Be ny said this provn may not be legal, & gave examples.

There was discussion of wording of this section.

Barry felt employer shd be responsible for paying
back award in order to avoid legal conflicts.

Knight interjected her interpretation

2:00

050

Met recessed for lack of quorum

BENEFIT DURATION SCHEDULE

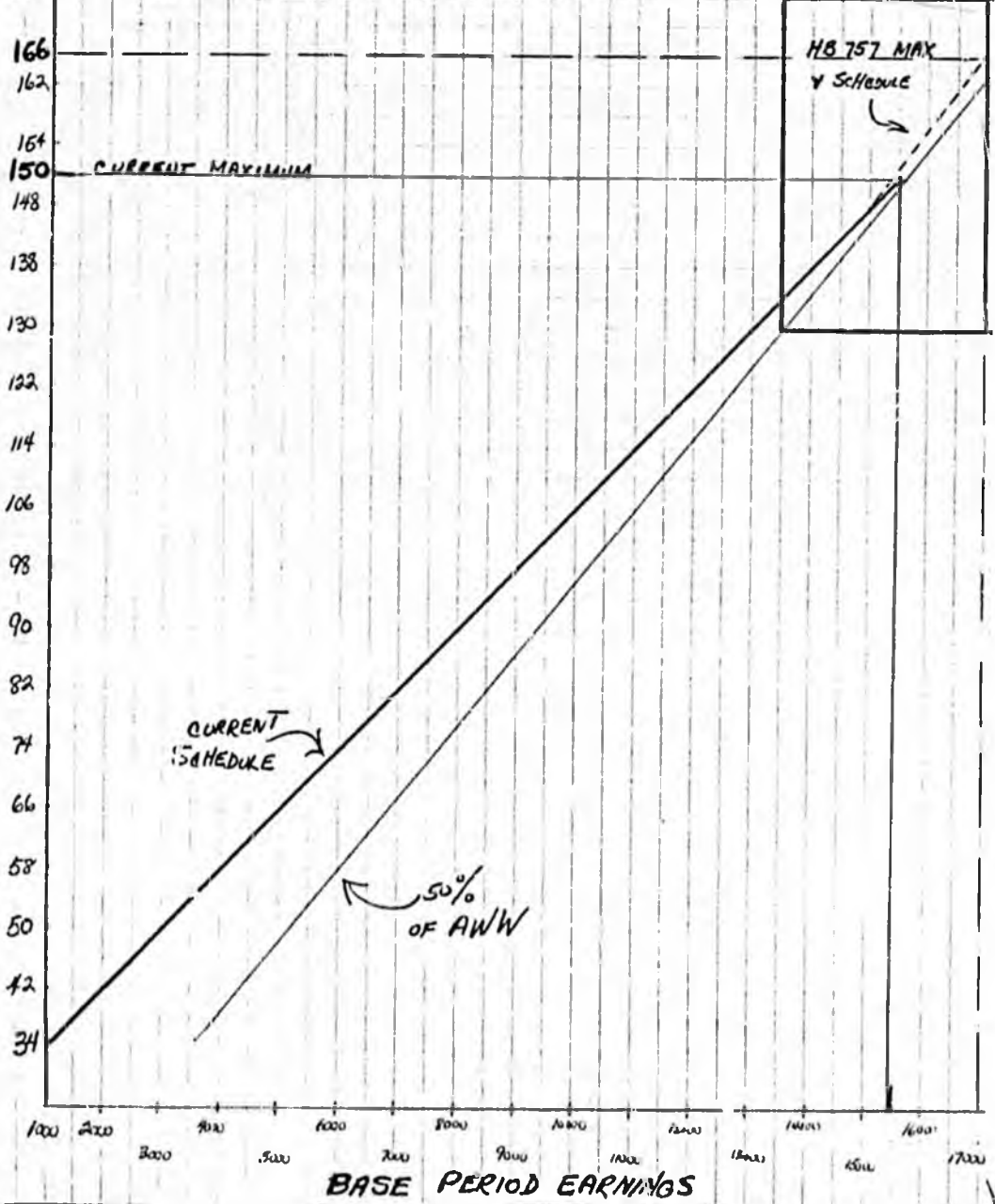
CURRENT

| Earnings Ratio | Number of Weeks |
|----------------|-----------------|
| less than 1.49 | 16 |
| 1.50 - 1.99 | 18 |
| 2.00 - 2.49 | 20 |
| 2.50 - 2.99 | 22 |
| 3.00 - 3.49 | 24 |
| 3.50 or more | 26 |

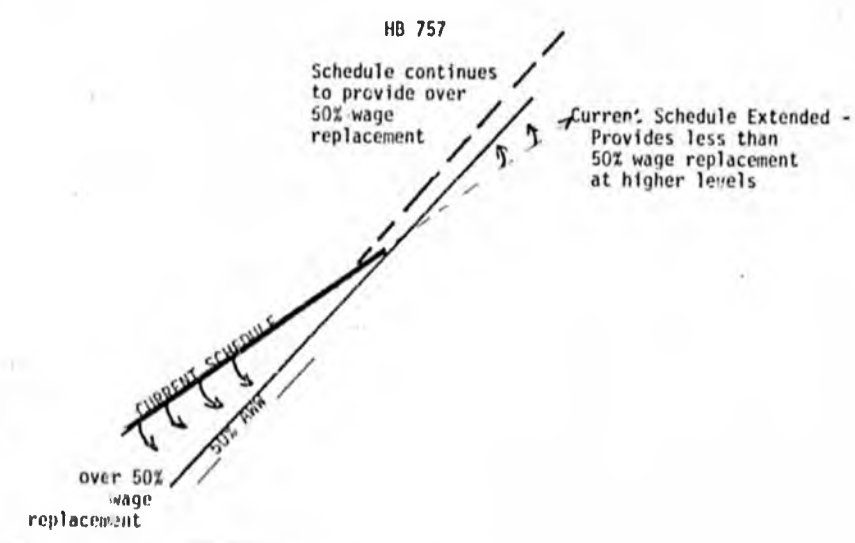
PROPOSED

| Earnings Ratio | | Number of Weeks |
|----------------|---------------|-----------------|
| At least | But less than | |
| | 1.50 | 18 |
| 1.50 | 2.00 | 20 |
| 2.00 | 2.50 | 22 |
| 2.50 | 3.00 | 24 |
| 3.00 | | 26 |

U.I. BENEFIT SCHEDULE



- Q. Why increase maximum WBA to \$166 when the maximum was just increased to \$150 in 1980?
- A. The 1980 Alaska legislature provided 2/3 of Alaskan claimants with at least 50% of their average weekly wage (AWW).
 Rapid inflation has eroded the maximum so that only 60% of eligible claimants now actually receive at least 50% wage replacement. A new maximum of \$166 would again provide 2/3 of eligible claimants with at least 50% wage replacement.
- Q. Why does the proposed schedule increase at a higher rate beginning at \$15,000 in base period earnings, instead of just continuing in the same increments as the current schedule?
- A. If the current schedule were extended to \$166 (at \$2.00 increments for every \$250 in base period earnings) then many claimants earning over \$15,500 would not receive 50% wage replacement. The current schedule provides higher wage replacements for low wage claimants and approaches 50% wage replacement at the maximum for claimants with base period wages of \$15,500. Changing the increments at \$15,000 ensures that all claimants eligible for less than the new maximum would receive at least 50% wage replacement, while still providing the same schedule for lower wage claimants.



BILL ANALYSIS

Section 1. Federal conformity requirement of P.L. 96-249. Must be effective in state laws by January 1, 1983. Amends AS 23.20.110 as follows:

1. Adds subsection (f) to require the sharing of unemployment insurance claims information with a state or federal agency which administers the Food Stamp program under the Food Stamp Act of 1977.
2. Adds subsection (g) to extend the requirements of AS 23.20.110 to any officer or employee of a state or federal agency which is provided information by the department.

Section 2. Federal conformity requirement (P.L. 96-249). Amends AS 23.20.115 to conform with AS 23.20.110(g) by adding state or federal employees to the list of those subject to prosecution for unauthorized disclosure of information.

Section 3. Housekeeping. Amends AS 23.20.165(e) as follows:

1. Excludes, from refunds of excess employee contributions, any interest paid by the employer on those contributions. Since only the employer pays interest on past due contributions (including the contributions he has deducted from his employee's wages) it is not equitable to make interest refundable to the employee.
2. Makes clear that employee deductions in excess of those required by AS 23.20.005 through 23.20.535 will be refunded. AS 23.20.165(e) currently specifies that only deductions in excess of the wages subject to contributions will be refunded.

Section 4. Housekeeping. Corrects the table under AS 23.20.290(c) by deleting the figure "100" on the last line of the table. To constitute a full one-twentieth of the total ratable payroll, rate class 20 under column A must include the remaining 5% of ratable payroll over 95%.

Section 5. Housekeeping. Amends AS 23.20.340(d) to completing the list of statutes under which a claimant may be disqualified.

Section 6. Housekeeping. Amends AS 23.20.340(f) to complete the list of statutes under which a claimant may be disqualified, and in addition specifies that all interested parties are entitled to appeal nonmonetary determinations.

Section 7. Departmental recommendation. Amends AS 23.20.350(d) to increase the weekly benefit schedule to a maximum of \$166. The increase in maximum weekly benefit amount is proposed to provide approximately 2/3 of claimants with replacement of 50 percent of their average weekly wage. Data since October 1, 1980, when the current schedule became effective, indicate that approximately 40 percent of claimants are receiving the maximum benefit amount and that most of those claimants are not receiving 50 percent wage replacement. Federal guidelines call for 80 percent of claimants receiving 50 percent wage replacement; however, Alaska's eligibility provisions make application of the federal guidelines prohibitively costly. The proposed weekly benefit schedule would increase benefit outlay by approximately four percent.

Section 8. Departmental recommendation. Amends AS 23.20.350(e) to increase potential duration by two weeks for 90 percent of claimant's eligible for regular benefits. The federal government has tightened eligibility for extended benefits so that fewer claimants will be eligible for EB, and the claimants most likely affected are claimants eligible for less than 26 weeks under the current formula. Giving these claimants an additional two weeks of regular benefits will increase the average duration for regular benefits by about one week. This is expected to increase regular benefits outlay by 6.4 percent.

The net effect of the benefit amount and duration increases and the restrictive language of the EB provisions should be that the total benefit payment will remain within two percent of current outlays. Employer costs should increase by four to six percent. The above legislation would phase some EB weeks (which are 50-50 state-federal) back to regular weeks (which are 100 percent state-funded).

Section 9. Housekeeping. Redrafts AS 23.20.350 to make the provision clearer. The current provision reads that the allowance for dependents is excluded from the amount paid to the claimant, and that is clearly not intended, in view of the requirements of AS 23.20.350. The revised provision correctly excludes dependents allowance only from the amount of benefits subject to reduction.

Section 10. Housekeeping. Amends AS 23.20.375(a) to complete that list of statutes under which a claimant may be disqualified.

Section 11. Housekeeping. Clarifies AS 23.20.378(a) by combining paragraphs (1) through (4) under a single new paragraph and designating paragraph (5) as paragraph (2). The context of the current provision implies that paragraph (5) was intended to be a necessary condition of paragraphs (1) through (3), but that is not how the provision reads.

Section 12. Housekeeping. Recodifies the current AS 23.20.350(b) as subsection (g) under AS 23.20.381. This requalifying requirement is mandated by Sec. 3304(a)(7) of the Internal Revenue Code, but it is not a monetary requirement and should not appear under AS 23.20.350. A benefit year is established for any claimant who meets the qualifying requirements of AS 23.20.350(a) (at least \$1000 in earnings in the base period, with at least \$100 outside the quarter of highest earnings), and an eligible monetary determination is issued, whether or not the claimant has actually worked since last establishing a benefit year. A claimant who has not had work and earnings since last establishing a benefit year is simply not payable on his current benefit year until the requalifying requirement is met.

Section 13. Federal conformity requirement. Required in all state laws by Section 236(a)(2) of the Trade Act, as amended by P.L. 97-35, and must be effective by October 31, 1982. Amends AS 23.20.382 by adding subsections (b) and (c) to prohibit disqualification of an individual attending training approved under the Trade Act of 1974. A housekeeping change was made to the current Sec. 382 and it was designated as subsection (a).

Section 14. Housekeeping. Clarifies AS 23.20.383(b) by restoring it to its original meaning prior to the 1980 amendments. Before the 1980 amendments an individual who was unemployed because of a labor dispute could escape disqualification if he was not involved in the dispute and was not a member of the grade or class of workers who were involved. However, if the labor dispute was caused by an employee's failure to comply with a working agreement or applicable law, the employee escaped disqualification regardless of his involvement. The 1980 amendments recodified the old AS 23.20.380(9) as AS 23.20.383 with minor changes. However, at that time the three "exception" provisions were made conjunctive, so that (as the provision currently reads) a claimant is disqualified unless (1) he is not involved in the dispute and (2) the dispute was caused by the employer's failure to comply with the law or a working agreement. These two circumstances would occur together so seldom that the "exception" provisions are virtually meaningless at present.

Section 15. Housekeeping. Amends AS 23.20.390(e) to provide a 15-day period for appeal from notices of liability. This same 15-day period applies to all other determinations under the Act and we see no reason to restrict liability appeals to 10 days.

Section 16. Departmental recommendation. Adds Sec. 392 to provide authority to collect from an employer the amount he deducts from a backpay award to an employee. This provision would apply only when the deduction is made because the employee has already received unemployment insurance benefits during the period covered by the award and has been found ineligible for those benefits because of the back pay

award. It does not seem correct to subsidize the award made by the employer with benefits paid from the trust fund, when the employee is going to be held liable for repaying the benefits.

Section 17. Federal conformity requirement of P.L. 97-35 and must be included in state laws not later than October 31, 1982. Adds Sec. 401 to provide for interception of benefits due a claimant who owes child support obligations.

Section 18. Federal conformity requirement of P.L. 97-35 which must apply to weeks of unemployment which begin after September 25, 1982 and must be included in state laws by October 31, 1982. The federal amendment requires at least 20 weeks of full-time insured employment, or the equivalent in insured wages, in order to qualify for extended benefits. The "equivalent in insured wages" specified by the federal law is earnings of 40 times weekly benefit amount or 1-1/2 times highest quarter earnings in the base period. The 40 x WBA option is recommended as the most liberal qualifying requirement.

Section 19. Federal conformity requirement (P.L. 97-35). Must be included in state laws by October 31, 1982. Adds subsection (c) to AS 23.20.407 to reduce weeks of extended benefits by any weeks of trade readjustment allowance received during the applicable benefit year.

Section 20. Federal conformity requirement (P.L. 97-35). Must be included in state laws by October 31, 1982. Amends AS 23.20.408(a) to remove the reference to national "on" and "off" indicators for the purpose of establishing an extended benefit period. The national trigger was repealed by P.L. 97-35, and extended benefits will be payable only when an extended benefit period is triggered on by a state indicator.

Sections 21-22. Federal conformity requirements (P.L. 97-35). Must apply to weeks beginning after September 25, 1982. Amend AS 23.20.408(f) and (g) by adding one percentage point to the insured unemployment rate necessary to trigger an extended benefit period on or off.

Section 23. Federal conformity requirement (P.L. 97-35). Must apply to weeks beginning after September 25, 1982. Amends AS 23.20.408(h) to exclude extended benefits payments from the calculation of the insured unemployment rate.

Section 24. Federal conformity requirement (P.L. 97-35). Must be included in state laws by October 31, 1982. Amends AS 23.20.409(1) to exclude the national EB trigger from the definition of "extended benefit period".

Section 25. Departmental recommendation. Defines "applicable benefit year" in accordance with the definition contained in 20 CFR 615.2(c)(2). The term is used in various places in the extended benefit provisions.

Section 26. Housekeeping. Amends AS 23.20.505(a) as follows:

1. Make AS 23.20.505(a) consistent with AS 23.20.530 by substituting the term "wages" for "remuneration". "Wages" is already defined in Sec. 530 as remuneration for services. The use of the term "remuneration" in Sec. 505(a) is therefore redundant.
2. Corrects the "excess earnings" computation in AS 23.20.505(a) to specify that an individual's wages for a week must be less than 1 1/2 times the weekly benefit amount plus \$50, in order to qualify for benefits for that week. The current provision is inconsistent with AS 23.20.360.

Section 27. Housekeeping. Amends the definition of "training or retraining course" in AS 23.20.520(26) as follows:

1. Changes the term defined in the provision to read "vocational training or retraining course", for consistency with AS 23.20.382.

2. Deletes the term "entry level" from the definition. We do not recommend restricting approvable training to entry level training only. For example, some union-sponsored training is not "entry level" but is nevertheless required for continued employment in the occupation.

Section 28. Housekeeping. Amends the definition of "institution of higher education" in AS 23.20.520(24) to include institutions in other states. The definition of "training or retraining course" in AS 23.20.520(26) excludes instruction intended for a degree from an institution of higher education. It is therefore not recommended that the definition of "institution of higher education" be limited to Alaska schools.

Section 29. Housekeeping. Amends AS 23.20.526(a) to exclude service as a juror from the definition of "employment." It is assumed that this was the intent of the Legislature when it excluded compensation received for jury duty from the definition of "wages" under AS 23.20.530(b)(12). However, if "wages" means all remuneration from whatever source, excluding jury pay from "wages" means it is not deductible from benefits. We recommend excluding jury duty from the definition of "employment", but do not recommend excluding jury pay from "wages". The exclusion of jury pay from "wages" is repealed in Section 32 of the bill.

Section 30. Housekeeping. Clarifies the definition of "wages" in AS 23.20.350(a) and corrects minor errors in the provision, as follows:

1. Makes clear that "wages" means remuneration from any source. It is recommended that the definition of "wages" refer to remuneration received from any employment, whether or not insured. The definition would then clearly apply both to determinations of insured status (initial determinations) under AS 23.20.350(a), and to the deduction of earnings from the weekly benefit amount, under AS 23.20.360 for a week in which a claimant is employed. Applying the definition of "wages" in this way would simplify the administration of these provisions and agrees with the way the definition of wages was intended in the federal draft provision which was used as a basis for AS 23.20.530(a).
2. Includes back pay as wages, regardless of whether the back pay was "awarded under a statute of this State or the United States." We do not recommend language which requires back pay awards to be compelled by force of law in order to be considered wages. This would exclude many back pay awards which are clearly intended as wages, for example where an employer freely negotiates a back pay award to an employee as the result of a wage dispute.
3. Requires allocation of back pay and irregular wage payments to the week in which the pay was earned, regardless of the purpose for the allocation. It is recommended that these payments be allocated both for initial determinations under AS 23.20.350(a) and for deductions from benefits under AS 23.20.360.

Section 31. Housekeeping. Adds paragraph (13) to AS 23.20.530(b) to exclude, from the definition of "wages", any compensation received for inactive National Guard duty. This provision was simply transferred from AS 23.20.505(c).

Section 32. Repeals the following provisions:

1. AS 23.20.350(b). Housekeeping. This provision was recodified as AS 23.20.381-(g) under section 12 of the bill.
2. AS 23.20.408(d) through (e). Repeal of these provisions is a requirement for conformity with P.L. 97-35. The definition of national "on" and "off" indicators is unnecessary because the national indicators were repealed by P.L. 97-35.
3. AS 23.20.505(b). Housekeeping. This definition of "remuneration" is not necessary, since Section 26 of the bill substitutes the term "wages" for the term "remuneration" in AS 23.20.505(a), and "wages" is already defined in AS 23.20.-530(a).

4. AS 23.20.505(c). Housekeeping. This provision currently excludes National Guard pay from "remuneration", and it is no longer necessary since National Guard pay has been recodified as an exclusion from "wages" under AS 23.20.530-(b)(13) in Section 31 of the bill.
5. AS 23.20.530(b)(11). Housekeeping. Repeal of this provision would allow remuneration received from fishing to be treated as wages. Section 3121(b)(20) of the Internal Revenue Code excludes service by individuals engaged in certain fishing operations from the definition of "employment", and AS 23.20.526(20) already excludes this service from coverage, in conformity with the federal law. However, excluding fishing earnings from the term "wages" goes further than required by the federal provision and prohibits deduction of this remuneration from benefits during a week in which a claimant is fishing.
6. AS 23.20.530(b)(12). Housekeeping. Repeal of this provision would include jury pay as wages and permit deduction of jury pay from benefits otherwise due for a week. Jury duty would be excluded from insured coverage by excluding it from the definition of "employment" under AS 23.20.526(a)(21), as proposed in Section 29 of the bill.

WEEKLY BENEFIT AMOUNT SCHEDULE

CURRENT SCHEDULE

PROPOSED SCHEDULE

| CURRENT SCHEDULE | | Weekly Benefit Amount | PROPOSED SCHEDULE | |
|-------------------|-------------|-----------------------|-------------------|---------------|
| Base Period Wages | | | At least | But less than |
| 0 | - 999.99 | \$ 0 | 0 | 1,000 |
| 1,000 | - 1,249.99 | 34 | 1,000 | 1,250 |
| 1,250 | - 1,499.99 | 36 | 1,250 | 1,500 |
| 1,500 | - 1,749.99 | 38 | 1,500 | 1,750 |
| 1,750 | - 1,999.99 | 40 | 1,750 | 2,000 |
| 2,000 | - 2,249.99 | 42 | 2,000 | 2,250 |
| 2,250 | - 2,499.99 | 44 | 2,250 | 2,500 |
| 2,500 | - 2,749.99 | 46 | 2,500 | 2,750 |
| 2,750 | - 2,999.99 | 48 | 2,750 | 3,000 |
| 3,000 | - 3,249.99 | 50 | 3,000 | 3,250 |
| 3,250 | - 3,499.99 | 52 | 3,250 | 3,500 |
| 3,500 | - 3,749.99 | 54 | 3,500 | 3,750 |
| 3,750 | - 3,999.99 | 56 | 3,750 | 4,000 |
| 4,000 | - 4,249.99 | 58 | 4,000 | 4,250 |
| 4,250 | - 4,499.99 | 60 | 4,250 | 4,500 |
| 4,500 | - 4,749.99 | 62 | 4,500 | 4,750 |
| 4,750 | - 4,999.99 | 64 | 4,750 | 5,000 |
| 5,000 | - 5,249.99 | 66 | 5,000 | 5,250 |
| 5,250 | - 5,499.99 | 68 | 5,250 | 5,500 |
| 5,500 | - 5,749.99 | 70 | 5,500 | 5,750 |
| 5,750 | - 5,999.99 | 72 | 5,750 | 6,000 |
| 6,000 | - 6,249.99 | 74 | 6,000 | 6,250 |
| 6,250 | - 6,499.99 | 76 | 6,250 | 6,500 |
| 6,500 | - 6,749.99 | 78 | 6,500 | 6,750 |
| 6,750 | - 6,999.99 | 80 | 6,750 | 7,000 |
| 7,000 | - 7,249.99 | 82 | 7,000 | 7,250 |
| 7,250 | - 7,499.99 | 84 | 7,250 | 7,500 |
| 7,500 | - 7,749.99 | 86 | 7,500 | 7,750 |
| 7,750 | - 7,999.99 | 88 | 7,750 | 8,000 |
| 8,000 | - 8,249.99 | 90 | 8,000 | 8,250 |
| 8,250 | - 8,499.99 | 92 | 8,250 | 8,500 |
| 8,500 | - 8,749.99 | 94 | 8,500 | 8,750 |
| 8,750 | - 8,999.99 | 96 | 8,750 | 9,000 |
| 9,000 | - 9,249.99 | 98 | 9,000 | 9,250 |
| 9,250 | - 9,499.99 | 100 | 9,250 | 9,500 |
| 9,500 | - 9,749.99 | 102 | 9,500 | 9,750 |
| 9,750 | - 9,999.99 | 104 | 9,750 | 10,000 |
| 10,000 | - 10,249.99 | 106 | 10,000 | 10,250 |
| 10,250 | - 10,499.99 | 108 | 10,250 | 10,500 |
| 10,500 | - 10,749.99 | 110 | 10,500 | 10,750 |
| 10,750 | - 10,999.99 | 112 | 10,750 | 11,000 |
| 11,000 | - 11,249.99 | 114 | 11,000 | 11,250 |
| 11,250 | - 11,499.99 | 116 | 11,250 | 11,500 |
| 11,500 | - 11,749.99 | 118 | 11,500 | 11,750 |
| 11,750 | - 11,999.99 | 120 | 11,750 | 12,000 |
| 12,000 | - 12,249.99 | 122 | 12,000 | 12,250 |
| 12,250 | - 12,499.99 | 124 | 12,250 | 12,500 |
| 12,500 | - 12,749.99 | 126 | 12,500 | 12,750 |
| 12,750 | - 12,999.99 | 128 | 12,750 | 13,000 |
| 13,000 | - 13,249.99 | 130 | 13,000 | 13,250 |
| 13,250 | - 13,499.99 | 132 | 13,250 | 13,500 |
| 13,500 | - 13,749.99 | 134 | 13,500 | 13,750 |
| 13,750 | - 13,999.99 | 136 | 13,750 | 14,000 |
| 14,000 | - 14,249.99 | 138 | 14,000 | 14,250 |
| 14,250 | - 14,499.99 | 140 | 14,250 | 14,500 |
| 14,500 | - 14,749.99 | 142 | 14,500 | 14,750 |
| 14,750 | - 14,999.99 | 144 | 14,750 | 15,000 |
| 15,000 | - 15,249.99 | 146 | 15,000 | 15,200 |
| 15,250 | - 15,499.99 | 148 | 15,200 | 15,400 |
| 15,500 or more | | 150 | 15,400 | 15,600 |
| | | 152 | 15,600 | 15,800 |
| | | 154 | 15,800 | 16,000 |
| | | 156 | 16,000 | 16,200 |
| | | 158 | 16,200 | 16,400 |
| | | 160 | 16,400 | 16,600 |

3-17-82

HB 806

HB 886

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 17, 1982
1:08 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph
Rep. Gardiner

Members Absent: Rep. Rogers

COMMITTEE CALENDAR

HB 806 An Act relating to hazardous or toxic substances.

HB 886 An Act relating to financial statements of corporations.

WITNESS REGISTER

Nancy Lord
Representative Brian Rogers
Pouch V
Juneau, Alaska 99811
465-4925
Position Statement: Presented HB 806 on Rep. Rogers' behalf.

Pete Hellstrom, Environmental Coordinator
ARCO Alaska, Inc.
PO Box 360
Anchorage, Alaska 99510
265-6176
Position Statement: Requested changes in HB 806.

Richard Arab
Division of Occupational Safety & Health
Department of Labor
Box 1149
Juneau, Alaska 99811
465-4856
Position Statement: Favored HB 806.

Ernst Mueller, Commissioner
Department of Environmental Conservation
Pouch U
Juneau, Alaska 99811
465-2600
Position Statement: Supported concept of HB 806.

E.S. Rabeau, M.D.

Division of Public Health
Department of Health & Social Services
Juneau, Alaska 99811
465-3090

Position Statement: Supported passage of HB 806.

Jake Wills, legislative intern
Representative Adams
Pouch V
Juneau, Alaska 99811
465-3706

Position Statement: Presented letter from Rep. Adams regarding
HB 886.

PREVIOUS ACTION

HB 806

No previous action.

Statutory Reference: AS 18.60

Action Taken: No action taken. Bill was
set aside to wait for further information.

HB 886

No previous action.

Statutory Reference: AS 10.05.825

Action Taken: Rep. Randolph moved to report
HB 886 from committee. There being no
objection, the motion passed.

ACTION NARRATIVE

Tape #38
Recording
Number 000

The meeting was called to order by Vice-
Chairman Bylsma at 1:08 p.m. Members
present were: Reps. Martin, Bylsma,
Randolph, and Gardiner. Rep. Rogers was
absent. Rep. Martin left immediately after
the call to order. Rep. Bylsma brought HB
806 before the committee.

Number 012

Nancy Lord, staff to Rep. Rogers, presented
HB 806, which was sponsored by Rep. Rogers.
She introduced a workdraft committee
substitute dated 3/15/82; a sectional
analysis; and fiscal notes. She explained
the reason for the bill, and said there was
particular concern about the petrochemical
industry in Alaska. Lord explained each
section, and listed groups of employees who

might be affected by the legislation.

Number 095

There was discussion of the draft committee substitute compared to the original bill, and of some of the wording in the bills.

Number 130

Pete Hellstrom, environmental coordinator for ARCO Alaska, Inc., said ARCO has been developing a position paper for distribution to employees which follows the intent of the bill. He wanted changes in the bill. He believed the bill is similar to legislation enacted by other states in recent months. He was disappointed, as OSHA is developing similar information--writing enabling regulations to ensure the same type of information on the national level. He recommended the committee delay action to allow OSHA to develop their regulations. Hellstrom wanted a modification in the language to limit the degree of burden on the employer (of having to submit the same information to employees annually). Rep. Gardiner asked if he meant the employer was not required to give information unless the employee requested it. Hellstrom said yes, that the employer should not be required to redistribute information annually. Rep. Gardiner asked how an employee would know to ask if he wasn't aware of the information. There was discussion.

Number 207

Hellstrom said the advantage in delaying the bill is so the Alaska Division of Occupational Safety and Health can work with federal OSHA, then the state could enact legislation or regulations to fill in the gaps applying to Alaska. He said the disadvantage to this would be the priority of concerns, but he felt emergency enabling regulations could fill this gap.

Number 229

Hellstrom commented on the bill section by section. He felt the scope is too broad, and explained his position. He wanted to be able to report, for example, crude oil as crude oil, not crude oil from Prudhoe Bay, broken down into all the chemical properties. Rep. Gardiner asked where this was addressed in the bill. Hellstrom said it was unclear. Rep. Bylsma recommended Hellstrom submit his proposed changes in writing, as well as sending a copy of his testimony.

- Number 283 Hellstrom said ARCO had determined that the bill was burdensome to the employer. He felt it should exclude exploration and production of oil, noting that this exemption was granted by the federal government. He continued his comments on each section of the bill.
- Number 413 Rep. Gardiner asked if ARCO, in conferring with other companies, found problems in other states. Hellstrom said his comments applied to this bill, not to legislation in other states. This was discussed.
- Number 473 Rep. Bylsma asked Hellstrom to document his objections to the bill.
- Number 485 Richard Arab, Division of Occupational Safety & Health, Department of Labor, referred to their position paper. He favored the bill, as it would provide the employee with the right to know of hazardous and toxic substances he is working with. He felt the best part of the bill is the part requiring informing the employee of substances he is working with, and giving safety training. Arab spoke of OSHA enabling regulations.
- Number 539 Ernst Mueller, Commissioner of the Department of Environmental Conservation, supported the concept of the bill. He felt, from an employer standpoint, that more specificity in definitions would be appreciated. He thought some paperwork could be eliminated. Mueller suggested allowing the Department of Labor the ability to establish small quantities of substances which are exempt from the information clause. There was discussion of definitions.
- Number 676 Dr. Rabeau, Division of Public Health, Department of Health and Social Services, supported passage of the bill. He thought statutes should be broader, because regulations can be more specific. He referred to the H&SS position paper, which lists department recommendations. He thought the bill imposed reasonable guidelines, and that it would be easy to put specific substances in regulations.
- Side B, Number 000 Rep. Randolph asked clarification regarding

the crude oil industry. Rep. Bylsma asked about refined products. Mueller said this would need to be considered more carefully. This was discussed.

Number 037

Rep. Gardiner said there is a question of what OSHA will or won't do. He said it might be possible, to avoid future implications, that someone would have the authority to provide exemption, if areas were addressed adequately by federal standards.

Number 054

Jeff Barry, committee aide, explained the state's role in the OSHA act. He said if a state has more stringent laws, the state laws supersede federal laws, so there would be no duplication. He said access of records is the basis of the bill, and that the question is whether or not it is in the public interest to make employees aware of risks. There was discussion.

Number 086

Rep. Bylsma set the bill aside until the committee could obtain further information.

Number 095

The committee took up HB 886. Jake Wills, legislative intern in Representative Adams office, explained why Rep. Adams could not testify about HB 886 (which Rep. Adams sponsored), and presented the committee with a memo from Rep. Adams explaining why the bill is needed.

Number 106

Barry said, as a bill analysis, that the bill does exactly what it says: defines requirements.

Number 141

Rep. Randolph moved to report HB 886 out of committee. As there was no objection, the motion passed.

Number 145

There being no further business to come before the committee, the meeting was adjourned at 2:08 p.m.

Absent:
Rogers

3/17/82

H L+C

HB 806

Tape # 38

HB 886

1:08

000
HB 806

right after call to order

Call to order by Martin Bylsma (Martin left); brought HB 806 before committee.

012

Nancy Lord, Rep. Rogers' office, presents on HB 806 (sponsored by Rogers); introduced 3/15 work draft, sectional analysis, & fiscal notes. Explained reason for bill. Particularly concerned about petrochemical industry in state. Explained each section, ~~also~~ the listed ^{groups of} employees who might be affected by the legislation.

095

Bylsma commented he had not received the draft that morning & he had no chance to review bill.

103

Lord offered to compare the draft CS to the original bill.

107

Randolph asked why to put "known" toxic or hazardous substance in the bill; ~~felt it might be reasonable~~

116

Lord said they would only be liable for informing workers of known health hazards & precautions; she referred to definitions in bill; said emphasis is on most recent avail info.

130

Pete Hellstrom, Arco Alaska Inc, Environmental Coordinator; Arco has been developing plain paper for death to employees which follows intent of bill. Want change in bill.

Blvs bill is targeted toward "employee info right to know" to ensure employee's safety. Said bill is similar to legislation enacted by other states in recent months.

Disappointed, as OSHA is developing similar info-writing enabling reg. to ensure same type of info on nat'l level.

Recommend: comm. delay action to allow OSHA to develop reg.;

wanted mod'n in language to limit degree of burden.
(submitting annually same info)

- 186 Gardiner asked if he meant the emp'r was not req'd to give info unless emp'e requested. Helstrom said yes; emp'r shd not be req'd to redist. info annually. I asked how emp'e wd know to ask if he wasn't aware of the info. Discussion.
- 207 Helstrom said adv in delaying bill is so At Dir Occ Safety & Health to wk. of fed'l OSHA; then state cd fill in gaps applying to AK. Disadv to this wd be priority of concern. Thought emergency enabling regs cd fill this gap.
- 229 Section by section comments:
— scope is too broad; explained his pos'n. Want to be able to report, eg, Crude as Crude, not Crude oil fm Prudhoe w/ breakdown of chemical properties.
- 270 Gardiner asked where this was addressed in bill; Helstrom said it was unclear. Bylsma recommended submitting prop'd chngs in writing, as well as copy of his testimony.
- 283 Helstrom said they (Aeco) determined that the bill was burdensome to emp'r; shd exclude exploration & production of oil (said this exemption was granted by feds);

- Commented on each section of bill
- 310 See .051 - want to list products generically, rather than breaking down
- .052 -
- .071 - wd require posting for each substance - wd be more reasonable to have this info at place emp's report to wk rather than at each wk entr. Agree w/ training upon empmt or when new substances introduced, thereafter at emp's report.
- .072 - overly burdensome & costly. Will result in no increase in wks safety. Request mod'n or deletion of sec.
- .105 - want change in def'n of (10) mfr (11) hazardous substances (12) toxic substance
- 413 Gardiner asked if Arco, in conferring w/ other cos, found probs in other states. H said comments applied to this bill, not legislation in other states. ~~Did not take~~ Discussion.
- 473 Byrd asked H to document objections to bill, what changes wanted, & why.
- 485 Richard Aron, Dept Labor, Occ Safety & Health - referred to press paper. Favors bill as it wd provide emp with right to know of hazardous & toxic substances they're wkg with. Best part of bill is part req'g emp of substances & giving safety training. ~~Said there was~~ ^{spots of} OSHA, ^{enabling} Reg'n. Reagan wd draw people; ~~but~~ open fm industry.

539 Ernest Muller, Comm., Env Conservation - supports concept.
From emp standpoint, wd appreciate specificity in definitions. Felt some paperwork cd be eliminated.
Suggested allowing Dept of Labr ability to establish small qty of substances which are exempt from info. clause.

618 Randolph said, re of defns, p. 5 "hazardous substances" elim (b) & elim (c) under "toxic wastes", wd not harm bill.
Muller agreed & said DOL cd add to list
Randolph Discussion.

676 Dr. Rabreau, Dept H+SS, Div- Public Health - support passage of bill. ~~Think~~ Think statutes shd be broader, regns can be more specific. Referred to pos'n paper, which lists dept. recommendations. Thinks the bill imposes reasonable guidelines; wd be easy to put specific substances in regns.

Side B

006 Randolph asked clarification regarding crude oil industry.

Byeloma asked abt refined products; Muller said this wd need to be considered more carefully. Discussion.

037 Gardiner said there is a gap of what OSHA will or won't do; said it might be possible, to avoid future implications, that someone wd have authority to provide exemption if addressed adequately by federal standards.

054 Barry explained state's role in OSHA act - if state has more stringent laws, state laws ~~are enforced over~~ ^{supersede} federal; wd not be duplication. Access of records is basis of bill. Qstr is whether or not it is in the public interest to make empes aware of risks; & what true effects are rather than conjectured effects.
Discussion.

086 Pryloma set bill aside to wait for further info.

HB 886

095 Jake Wells, legis intern, Adams ofc, said Adams cd not attend (conflict w/ another mtg), but sent ltr over

106 Barry said, as bill analysis, that bill does exactly what it says - defines reqmts.

Discussion.

141 Randolph moved to pass HB 886 fm comm. Mo passed unan.

145 Adjourned 2:08

Bristol
Bay
Native
Corporation

445 E. 5TH AVENUE / P. O. BOX 220 / ANCHORAGE / ALASKA 99510 / PH. (907) 278-3602

March 10, 1982

Honorable Terry Martin
House of Representatives
Chairman - Labor and Commerce Committee
State of Alaska
Pouch V, Mail Stop 3100
Juneau, Alaska 99811

Dear Mr. Martin:

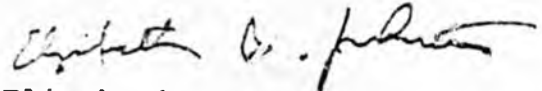
I am writing to you in support of House Bill 886. House Bill 886 amends the profit corporation statutes to specifically define the phrase "financial statements of the corporation." Why is this definition needed?

"Financial statements of the corporation" is a key phrase in determining a director's defense against personal liability for dividend payments. AS 10.05.219(1). Yet the phrase is ambiguous. This ambiguity creates unnecessary risks for directors attempting to comply with statutory requirements. Clarity would serve to protect directors from ex post facto definitions and liability.

The definition of "financial statements of the corporation" in House Bill 886 contains two basic concepts. The first is that the financial statements will be prepared according to generally accepted accounting principles then applicable. The second is that the statements will be consolidated, where appropriate. Both of these concepts are basic to the published financial statements required by the Securities Exchange Commission to be sent to all shareholders. Both concepts have also been incorporated by the Code Revision Commission, in its working draft of the corporation statutes. The American Institute of Certified Public Accountants, the SEC and the Code Revision Commission, all endorse these concepts because they produce economically meaningful data and because they protect shareholders and creditors from the manipulation of financial data.

In short, I support the definition because it will protect directors and it will protect creditors and shareholders as well.

Very truly yours,



Elizabeth B. Johnston
General Counsel

cc: Representative Al Adams

HOUSE BILL 886

Alaska corporate law makes directors of a profit corporation jointly and severally liable for excessive dividend payments. AS 10.05.216(a). However, this same law also provides a defense or a safe harbor. A director is not liable for excessive dividends if he in good faith relied on the financial statements of the corporation for his analysis of a legal dividend source. AS 10.05.219(1).

The problem is that the scope of this defense is ambiguous. The meaning of "financial statements" is unclear and therefore, creates unnecessary risks for directors as they try to comply with dividend requirements.

The solution is to define the "financial statements of the corporation." The definition proposed in House Bill 886 includes, where appropriate, consolidated balance sheets and income statements prepared according to generally accepted accounting principles. While other financial documents are useful for other corporate purposes, only the preceding are useful for an analysis of a legal source for dividends under AS 10.05.219(1).

POSITION PAPER
CS for House Bill No. 806 (L&C)

John
(Billatto)

"An Act relating to hazardous or toxic substances."

House Bill No. 806 requires the manufacturer and seller of hazardous or toxic substances to provide to the purchasers of these substances complete information as to the characteristics and precautions required when using. Any employer utilizing a substance included under this act must post a copy of the information for the employees to review plus provide training and safety gear. The employer must file with the Department of Labor annually, complete disclosures with regards to his activities and usage of the hazardous and toxic substances.

This bill imposes reasonable guidelines concerning handling of toxic and hazardous substances in manufacture and selling.

Minor recommendations include the following:

- 1) Under Section 18.60.051 consider adding "significant levels of toxic impurities if they exist in a mixture."
- 2) Under Section 18.60.071 consider change of mandatory requirements depending on size of employer e.g. less than ten.
- 3) Under Section 18.60.105 consider substances manufactured outside of the State and shipped in.
- 4) Under Section 18.60.073c the confidentiality of medical records may be breached if it is left that the Department may "require."

The Department supports the passage of this Bill.

Recommended by: *E. S. Rabeau*
E. S. Rabeau, M.D., Director
Division of Public Health

Date: March 15, 1982

Approved by: *Helen D. Beirne*
Helen D. Beirne, Commissioner
Department of Health and
Social Services

Date: 3-16-82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 806
Title "An Act relating to hazardous or toxic substances."
Requested by Rogers Date 2-22-82

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services
Program Category Affected Health/Public Health
BRU, Program, Or Subprogram(s) Affected Communicable Disease Control/Epidemiology
(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 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | 0 | | | | |
| 200 TRAVEL | | 3.0 | 3.3 | 3.6 | 4.0 | 4.4 |
| 300 CONTRACTUAL | | 3.0 | 3.3 | 3.6 | 4.0 | 4.4 |
| 400 COMMODITIES | | 3.0 | 3.3 | 3.6 | 4.0 | 4.4 |
| 500 EQUIPMENT | | 1.0 | 1.2 | 1.3 | 1.5 | 1.6 |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | | 10.0 | 11.1 | 12.1 | 13.5 | 14.8 |

FUNDING (Thousands of Dollars)

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|------------------------|-------|-------|-------|-------|-------|-------|
| GENERAL FUND | | 10.0 | 11.1 | 12.1 | 13.5 | 14.8 |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |

POSITIONS

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|-----------|-------|-------|-------|-------|-------|-------|
| FULL TIME | | | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

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

All inflation at 10%

This fiscal note covers the travel costs, training seminars, commodities and testing equipment that must be utilized by our Epidemiologists in investigating the effects of exposure in humans. As the petrochemical industry develops in Alaska more and more problems will develop, very little of the acute and chronic health effects will be known and when the risks are known they tend to be understated. As problems develop it will be incumbent upon the Epidemiologist to do in depth investigations.

The fiscal impact of this bill on the Department of Health and Social Services is due to the fact that the Department of Labor uses the epidemiological section of this department as a consultant on the hazards of toxic substances.

IV. DATE 2-22-82 PREPARED BY David Bruce
AGENCY Dept. of Health & Social Services
Original: Legislative Finance PHONE 465-3090
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

JCC

Draft CS for HB 806 (L&C)



Sectional Analysis

HB 806 was drafted to conform with model "right-to-know" legislation from other states. The basis for the legislation is that Alaskan workers have the right to know about hazardous or toxic substances with which they work and that it is an employer's responsibility to supply that information.

18.60.051 requires an in-state manufacturer of a hazardous or toxic substance to make available certain information including the name of the substance, its hazards, proper handling procedures, and health risks.

18.60.052 requires a seller of a hazardous or toxic substance to provide the same information.

18.60.071 requires an employer to post in the workplace where a hazardous or toxic substance is present the same information, and to provide training at his own expense about the potential hazards and proper handling of the substances.

18.60.072 requires manufacturers, sellers, and employers to file annual reports with the Department of Labor. Trade secrets are protected.

18.60.073 allows past, present, and future employees access to reports filed with the department and to exposure measurements. The department may require employees to furnish health and exposure records pertinent to an investigation. Regulations shall be adopted to ensure that an employee has ready access to all relevant information about hazards and exposure.

18.60.074 allows for the department to disclose to the public information about hazardous and toxic substances and the circumstances under which the public might be affected.

Section 2 provides definitions.

MONDAY BRIEFING

National

Joint space labs possible

Cocoa, Fla. — The administrator of the American space program says the United States may join with Japan and Europe within the next five years to build an orbiting space station. James Beggs of the National Aeronautics and Space Administration told the newspaper Cocoa TODAY in an interview published Sunday that the station would use European Space Agency technology in building spacelabs and Japanese computer expertise. He said habitable modules connected by steel beams would be designed at the Johnson Space Center in Houston and launched piece-by-piece from the Kennedy Space Center in Florida.

Nuclear sub protest planned

Tacoma, Wash. — A Roman Catholic archbishop says he will take part in a blockade designed to prevent a Trident nuclear submarine, the USS Ohio, from reaching the Bangor Naval Base. Raymond Hunthausen, archbishop of Seattle, said at a rally Sunday he would participate this summer in the effort to keep the submarine out of the the Kitsap Peninsula base west of Seattle.

Boat house collapses

Gilford, N.H. — Boats drawn out of Lake Winnepesaukee to protect them from winter ice fell victim to heavy snow when a boathouse collapsed on 169 pleasure craft valued at \$3 mil-

lion. Gerald Fagan, owner of the Gilford Marina building which collapsed Friday night, said it would take up to six weeks to remove the boats that were stored five-high on racks. Damage to the 300-foot metal shed was estimated at \$700,000.

Car crashes into bus

Lo. Angeles — When a bus was struck in the rear by a car, bystanders in southwest Los Angeles jumped onto the Rapid Transit Authority vehicle and claimed to be injured, police say. The driver of the car, Shelton Eugene Knight, 32, was arrested Saturday for investigation of felony driving under the influence of drugs. Sgt Roger Lindsay said the injury count, which jumped to 26 when bystanders jumped on the bus, dropped to nine when they found out the bus driver was not at fault.

Factories emit cancerous gas

Akron, Ohio — There are no regulations to stop tire manufacturers from emitting thousands of pounds a year of a cancer-causing gas, a lobbying group says. The National Clean Air Coalition said in a report Sunday that Goodyear and B.F. Goodrich plants in Akron release more than 350,000 pounds of acrylonitrile a year. The companies acknowledged the substance is emitted from their plants, but said they were in compliance with all federal, state and local law.

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 3/17

Place: _____

| <u>Members</u> | <u>Present</u> | <u>Absent</u> | <u>Time Arrived</u> | <u>Time Left</u> |
|--------------------------|-----------------|---------------|---------------------|------------------|
| Rep. B. Bylsma, V. Chair | <u> </u> ✓ | <u> </u> | <u>1:02</u> | |
| Rep. D. Randolph | <u> </u> ✓ | <u> </u> | <u>1:08</u> | |
| Rep. B. Rogers | | | | |
| Rep. T. Gardiner | <u> </u> ✓ | <u> </u> | <u>1:08</u> | |
| Rep. T. Martin, Chair | <u> </u> ✓ | <u> </u> | <u>1:00</u> | |

Subject Matter:

House Bill No. 806 886 _____

Senate Bill No. _____

Special Orders:

3-18-82

H B 846

H B 862

H B 885

S B 798

SB 798 SENATE ACTION
DATE SEQ PAGE

09:22 3/19/82 PAGE 2 OF 3

LEGISLATIVE ACTION

02/16/82 01 0311
03/15/82 02 0572
03/16/82 03 0580

FIRST READING -- COMMITTEE REPORTS

L&C -- CS05
RLS -- OTHER03

TAKEN UP IMMEDIATELY

03/16/82 04 0583
03/16/82 05 0583
03/16/82 06 0584
03/16/82 07 0584
03/16/82 08 0584
03/16/82 09 0584

SECOND READING

L&C CS ADOPTED BY UNAN CONSENT
ADVANCED TO 3RD READING BY UNAN CONSENT

THIRD READING

PASSED BY DIV 18-00-02
EFFECTIVE DATE VOTE SAME AS PASSAGE

**** ** **

*** ** *

SB 798 HOUSE ACTION
DATE SEQ PAGE

09:22 3/19/82 PAGE 3 OF 3

LEGISLATIVE ACTION

03/17/82 10 0809

FIRST READING -- COMMITTEE REPORTS

LABOR & COMMERCE
RULES

**** ** **

*** ** *

Absent:
Martin
Bridges

3/18/82

H 220 & Comm

HB 846
HB 862
HB 885
SB 798

Topic # 39

1: 18
000 case to order by Bygones

005- HB885

007 Skir Hillard, VP & gen counsel, Cook Julett Region Inc - intent of bill was to provide clarification of ^{to yr} exemption of ad valorem taxation of property until developed or leased to Min parties. Problems resulted because of def'n of "developed" & "leased", & inconsistency of interpretation between Byrgones. Went over options to clarify these defns.

064 ~~Kellie Stover~~ ^{Kellie Stover}, Cape Fox Corp - fee that state has - fee issue of deeps and be ~~addressed~~ ^{addressed}. Didn't pay until they can afford to pay. We rather be taxed after income derived. Comm & Regs and consider other things than taxes: environmental credits, tax incentives, tax limitations.

111 Deal that a sound economic base and be established & promote diversification, not just look at a tax which may be a deterrent. We like to be involved in any rewrite.

Patricia Anderson, MOA, ^{ndr} - originally intended that native lands not be taxed; concern is are 10 w/ lands being subdivided & developed. Bill ~~there~~ attempts to define point at which subd becomes developed property & subject to tax. ~~Congressional~~ Need to define that point; not sure it can be decided by anything except

1:30 Randolph litigation. Discusses attempts to define & impact of defns.
left

175 Rogers asked when suggested rewrites cd be avail.

Anderson thought early next wk.

R asked which bill (SSB 800 or HB 885); A responded with probs he foresaw w/ each bill.

198 Barry, at Adams' request - since Adams requested adopting wk draft CS HB 885.

218 Norman Stator, Sealaska - wk d w/ C&RA, CINA, & others to arrive at defn of developed. Said both bills essentially the same; somewhat ambiguous, but needs to be.

Support either bill; however wk draft leaves out proth (i.e. 29 "forest lands, p. 1 - HB) that was in the HB.

Will submit amendt to correct this. Provn exempt timber land fm municipal tax'n; feel that muni real property tax is not approp for timber; shd be taxed on severance tax basis. Feel state wd benefit by uniform severance tax. Willing to wk w/ legis & state in est'ing severance tax. Want timberlands provn left in bill.

281 Rogers - no objection to allowing municipal severance tax rather than real prop tax?

Stator preferred state severance tax.

Loescher

- 294 Bob Cooker, VP Resource Mgmt, Sealaska - passed out prepared testimony. Also handed out proposed amendments to draft bill - substituting 2 paras for lang in HB, l. 29, p.1 - p.2, l1-3. ~~Then State~~ Explained. Amendment says conversion for any use except forest land becomes developed land. Forest resources dept have no formal tax structure; ~~Wanda~~ asked if bill inadvertently establishes forest tax pgm. We like to wk w/ legio to establish more formal policy on tax'n of forest lands rather than doing it as part of this bill.
- 380 Second amendment says state govt will retain powr to tax forest land; second section deals w/ deleg'n of tax powr to local govt.
- 391 Kie Campbell, ~~state~~ staff to E S C+RA - involved in drafting CS. Gave background on how they arrived at CS. Tried to draft bill that closely follows intent of ANCSA so it will be upheld in any future litigation. Did not feel bill shd R address ^{broad} resource taxation issues.
- 455 Rep Bylsma said bill wd be held, as there was no quorum.
- 462 - ~~HB 846~~ was brought before comm in lieu of HB 846.
CS SB 798

#

485 Don Koch, ^{Chief, Market Surveillance Sec} Div of Ins - support bill. Refused to push paper, requesting amndmts which were inc'd into CS. Said there is prob w/ Sec 5 & 6 (drafting error).

500 Rogers said prob came up in Flx; asked if bill addressed it.

Koch said must tell us wk is done when preparing title report; insurance follows report. Prob comes up in rate files. Said bill allows rating orgns, doesn't require them.

569 Rogers requested staff to redraft bill, deleting sec. 6.

578 Bylsma had qstns abt granting license in part or in (p. 6, l. 22) whole. Koch said conceivably dir may wish to limit role of rating orgn.

617 Koch said need to remove current sec 6 fm CS.

620 Bylsma p. 6, line 27 (1) - qstn on whether there was technical error in subsection. Koch clarified intent of section.

670 Bylsma, on old bill, p 4 l. 8 ~~and~~ p. 5, l. 22 - had qstns. Koch explained.

meten
(7/14)
0:03
Randalph
returned)

703 Rogers moved to report HCS SB798 (L+C) consisting of SB, minus sec 6 of SB. Mo passed w/o objection.

Side B 006

HB 862 Bylsma referred comm to HB 862

009 Lonaine Mc Gregory - gave her personal history & told how bill would ^{help} impact her.

063 Rogers asked clarification.

068 Kent Humphries^{EYS}, Dep Dir, Div of Retirement Benefits - thinks it's a good bill to accomplish purpose. Concern w/ bill is whether that's all bill would accomplish. Elaborated.

092 Rogers asked how acts such as the Gregory's wd be administratively handled. Humphries said lump sum, less lump & pymt, ^{with} ~~plus~~ interest on both.

115 Humphries suggested adding intent to bill. Discussion of impact.

130 Barry said it isn't uncommon to limit repeal to those acts that won't pyramid und' benefits. Discussion.

140 Rogers moved to add secs 2- end of HB 101 to end of bill. For - Rogers opp'd - Randolph, Bylsma

157 Rand l. 10 removed period after 1968 & add

Rogers asked unan consent.

There was discussion.

Rogers w/drew request for unan consent.

Rand w/drew mo

178 Rogers moved to add ltr of intent to ^{limit to circumstances} described & not to allow pyramiding of

Discussion of alternate methods to accomplish purpose of bill.

~~to~~ No passed w/o objection.

~~2:00~~

204 Rand moved & asked unan consent to pass HB 862 fm comm.

No passed w/o objection

2:20

2:08

adjourned

CAPE FOX CORPORATION TESTIMONY ON SENATE BILL 802
March 9, 1982

My name is Kellus Sewell, the Governmental Affairs Representative for Cape Fox Corporation (CFC). Cape Fox Corporation, as many of you may know, is a small village corporation in Saxman, Alaska near Ketchikan.

As evidenced in the Alaska Native Claims Settlement Act (ANCSA) and as amended by the Alaska National Interest Lands Conservation Act (ANILCA), the twenty year tax moratorium was granted to free the Native community from burdens of federal taxation until a period of time elapsed that was considered necessary to allow them to "get their feet on the ground." Let me emphasize that the exemption was not for a short period of time but for "twenty years".

We hope that as you review the matter of state and local taxing of these private resources, many owned by small corporations, that you also recognize the need to support tax exemptions, credits, and incentives until a sound economic base is established.

The Cape Fox Corporation strongly feels that development of "renewable" and "nonrenewable" resources ought to be encouraged yet only if adequate time is allowed for proper planning. Consequently, we encourage the administration and the legislature to consider the following:

- (1) Exempting the Native entity from taxation until development results in the actual "generation" of income;
- (2) Providing for tax incentives (i.e. similar to H.B. 866) to stimulate more diversified development;
- (3) Allowing for environmental credits related to investments to guarantee sound development of our most valuable natural resources; and
- (4) Establishing a tax limitation that will not erode profits or revenue from potential development but result in placing us in a "fair" competitive advantage with timber marketed from state or federal lands.

Therefore, we support Senate Bill 802 and House Bill 885 as long as the "forest" language (line 29, page 1 through line 3, page 2) exempts forest resources from taxation until the concerns mentioned above are adequately addressed.

We again emphasize that we strongly encourage the legislature to adopt a definition of "developed" property that will encourage sound development and one which does not result in taxes until the developed property actually generates income. If the state elects to allow local governments to develop their own taxing mechanisms,

we would hope that the state would see fit to establish a "taxing framework" that would promote sound development through uniform treatment of tax exemptions, credits, incentives, and limitations.

We hope that we will be included in any future deliberations on this issue and thank you for the opportunity to allow Cape Fox Corporation to present its concerns.

Alaska State Legislature

House of Representatives

Albert P. Adams

Chairman

Committee on Finance



Official Business

WHILE IN SESSION

Pouch V

State Capitol

Juneau, Alaska 99811

(907) 465-3706

HOME - DISTRICT 21

P.O. Box 271

Kotzebue, Alaska 99752

(907) 442-3320

TO: Representative Terry Martin, Chairman
House Labor and Commerce Committee

FROM: Representative Albert P. Adams, Chairman
House Finance Committee

DATE: March 18, 1982

SUBJ: HB 885, "An Act relating to tax exemptions; and
providing for an effective date"

I have introduced this bill to clarify the term "developed," which is not explicitly defined in the ANCSA Act of 1971, or the amendments made to it by ANILCA of 1980. Passage of this bill is very important to Native corporations and local governments. If this issue is not settled through legislation, it will be resolved in court, at great expense to all concerned.

Section 21(d) of ANCSA, as amended, provides a tax moratorium on ANCSA lands for a period of twenty years. However, this exemption is lost when the land is "developed." Since the term "developed" is not defined in the act, different definitions are being used by different local tax assessors. Cook Inlet Native Corporation, for example, has land in both the Municipality of Anchorage and the Mat-Su Borough, and is taxed differently by each.

Some assessors claim that ANCSA lands are subject to local taxation when conventional developments such as construction of roads, surveying, and the provision of utilities are made on the lands. Congressional intent holds that taxation does not become effective until some form of economic development which produces income from the land is made. The legislative history of ANCSA and ANILCA shows that Congress intended the taxability of ANCSA lands to be linked to the generation of income, thereby providing the revenues necessary to pay property taxes without risking loss of the lands. I believe this bill defines the term as closely to Congressional intent as possible.

A committee substitute has been drafted by the Senate Community and Regional Affairs Committee, to be considered later this afternoon. I would propose that this committee substitute be accepted by House Labor and Commerce. The substitute rephrases section 1 (1) and deletes reference to platting and to forest lands.

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 3/18/82

Place: _____

| <u>Members</u> | <u>Present</u> | <u>Absent</u> | <u>Time Arrived</u> | <u>Time Left</u> |
|--------------------------|----------------|---------------|---------------------|------------------|
| Rep. B. Bylsma, V. Chair | _____ ✓ | _____ | 1:07 | |
| Rep. D. Randolph | _____ ✓ | _____ | 1:15 | |
| Rep. B. Rogers | _____ ✓ | _____ | 1:10 | |
| Rep. T. Gardiner | | | | |
| Rep. T. Martin, Chair | | | | |

Subject Matter:

House Bill No. 846 862 885 _____
Senate Bill No. _____

Special Orders:

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

JAY S. HAMMOND, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2515

LEGISLATIVE POSITION PAPER
SB 798 and HB 846
March 8, 1982

SB 798 and HB 846 are identical proposals relating to title insurance rating organizations. The proposal would permit the use of a title insurance rating organization by title insurance companies doing business in this state. Current Alaska law regulating title insurance (AS 21.66) derives from a model law drafted by the American Land Title Association which includes a provision for title insurance rating organizations. This provision was not included when the current Alaska title insurance law was adopted in 1974. This was due primarily to the objections of this division. It was felt that rating organizations for title insurance would not be in the best interest of the Alaska insuring public.

Rating organizations typically develop and file rates, rules, rating plans, statistical plans, contract forms and endorsements on behalf of member and subscriber companies. They enable companies to act together in these issues and provide a broader base of experience and credibility for the rates used as well as reduce insurance company expenses by avoiding duplication of some rate development functions. Insurers are able to act in this fashion because of enabling Federal legislation, namely, the McCarran-Ferguson Act (Public Law No. 15, 79th Congress, 1st Session 1945, 59 Stat. 33, 15 U.S.C. Secs. 1011-1015). This approach has been used in property, casualty, surety and marine lines of insurance for most of this century. Rating organizations have been viewed as anti-competitive devices in the property, casualty, surety and marine field and indeed some modification of their role in those markets should be and is being considered.

The marketing of title insurance is distinctly different from property, casualty, surety and marine kinds of insurance. Competition is structured differently. This is due in part to the fact that title insurance is almost always an incidental part of a transaction involving real estate. It is also due in part to the fact that while most other kinds of insurance are based on a rate making methodology that reflects

LEGISLATIVE POSITION PAPER

SB 798 and HB 846

March 8, 1982

Page 2

risk assumption and distribution, title insurance is based on a methodology that looks to risk avoidance or risk elimination. There is no one way to establish and support rates for title insurance in this state. In fact the principal method currently is to follow the leader. We have concluded that the best way to develop a rate-making methodology with all that is needed to support such a system is to enable a rating organization for title insurance. It would admittedly provide a rating system with uniform rates, but we have rates that are uniform now. It would provide a vehicle for developing supportive statistics and distributing information to the public. We believe that a title insurance rating organization could provide a positive and favorable force in this state and assist the division to effectively meet its responsibilities under the insurance law of Alaska.

We have one principal concern with the bill. That concern is that current problems with the divisions procedures for disapproving a filing relating to title insurance would be compounded with passage of this proposal. AS 21.66.400 now provides that the division can only disapprove a filing after a hearing has been held. We would propose that the authority to disapprove a filing without first holding a hearing be granted. Our proposal would still provide for a hearing when it is requested by the person which made the disapproved filing. This approach is currently incorporated in the property, casualty, surety and marine rate law (AS 21.39.120). Given this change (proposed language attached) we support the enabling authority for a title insurance rating organization proposed in SB 798 and HB 846.

Suggested amendments to SB 798 and HB 846

In both bills, remove the material on page 3, lines 5 through 29 and page 4, lines 1 through 15 and replace with the following:

CURRENT LAW

Sec. 21.66.400. Disapproval of filings. (a) Upon the review at any time by the director of a filing, he shall, before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice, specifying in reasonable detail the matters to be considered at the hearing. Notice of the hearing shall be given to each title insurance company which made a filing, and if, after the hearing, the director finds that the filing or a part of the filing does not meet the requirements of this chapter, he shall issue an order specifying how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is considered no longer effective. If the filing or a part of it has become effective under the provisions of sec. 370 of this chapter. A title insurance company has the right at any time to withdraw a filing or a part of a filing. Copies of the order issued under this section shall be sent to every title insurance company affected. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.

PROPOSED LAW

Sec. 21.66.400. DISAPPROVAL OF FILINGS. (a) If within the waiting period provided for in sec. 370(c) of this chapter, the director finds that a filing does not meet the requirements of this chapter, he shall send to the title insurance company or title insurance rating organization which made the filing, written notice of disapproval of the filing specifying in what respects he finds the filing fails to meet the requirements of this chapter and stating that the filing shall not become effective.

(b) If at any time subsequent to the applicable review period provided for in sec. 370(c) of this chapter, the director finds that a filing does not meet the requirements of this chapter, he shall, before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice, specifying in reasonable detail the matters to be considered at the hearing. Notice of hearing shall be given to each title insurance company or title insurance rating organization which made the filing, and if, after the hearing, the director finds that the filing or a part of the filing does not meet the requirements of this chapter, he shall issue an order specifying how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is considered no longer effective. A title insurance company or title insurance rating organization has the right to withdraw a filing or a part of a filing. Copies of the order issued under this section shall be sent to every title insurance company and title insurance rating organization affected. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.

COMMENTS

The proposed law splits the current subsection (a). The new subsection (a) allows disapproval of a title filing, when done within the waiting period, without a hearing. The new subsection (d) provides for a hearing in such cases when requested. This procedure is the same as is now being used for property, casualty, surety and marine insurance regulated under AS 21.39.

The new subsection (b) is the same procedure applied to filings to be disapproved after the filing has become effective. The only difference basically is the added language for title insurance rating organizations.

CURRENT LAW

(b) A person or organization aggrieved with respect to a filing which is in effect, may make written application to the director for a hearing on the filing. The title insurance company that made the filing may not proceed under this subsection. The application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, and that the applicant would be aggrieved if his grounds are established, and that his grounds otherwise justify holding such a hearing, he shall within 30 days after receipt of the application, hold a hearing upon not less than 10 days written notice to the applicant and to each title insurance company which made such a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the requirements of this chapter, he shall issue an order specifying how the filing or a part of it fails to meet the requirements of this chapter, stating when, within a reasonable period after the order is issued, the filing or a part of it is considered no longer effective. Copies of the order shall be sent to the applicant and to every such title insurance company. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.

PROPOSED LAW

(c) A person or organization aggrieved with respect to a filing which is in effect may make a written application to the director for a hearing on the filing. The title insurance company or title insurance rating organization that made the filing may not proceed under this subsection. The application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, and that the applicant would be aggrieved if his grounds are established, and that his grounds otherwise justify holding a hearing, he shall, within 60 days after receipt of the application, hold a hearing upon not less than 10 days written notice to the applicant and to each title insurance company or title insurance rating organization which made such a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the requirements of this chapter, he shall issue an order specifying how the filing or a part of it fails to meet the requirements of this chapter, stating when, within a reasonable period after the order is issued, the filing or a part of it is considered no longer effective. Copies of the order shall be sent to the applicant and to every affected title insurance company or title insurance rating organization. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.

COMMENTS

Current subsection (b) is the same as proposed subsection (c) except that title insurance rating organizations have been reflected and the period for granting a hearing under the subsection has been extended from 30 days to 60 days. The real effect is to require notice of hearing within 50 days rather than 20 days.

CURRENT LAW

PROPOSED LAW

COMMENTS

NONE

(d) A title insurance company or title insurance rating organization to which the director has issued an order made without a hearing may, within 30 days after notice to it of the order, make a written request to the director for a hearing. The director shall hear the party or parties within 60 days after receipt of the request and shall give not less than 10 days written notice of the time and place of the hearing. Within 15 days after the hearing the director shall affirm, reverse or modify his previous action, specifying his reasons. Pending the hearing and decision the director may suspend or postpone the effective date of his previous action.

This subsection has been noted in the discussion relating to the splitting of current subsection (a).

NONE

(e) A hearing under this subsection is not required to observe formal rules of pleading or evidence.

This is a new subsection and is selfexplanatory.

(c) No filing or modification of a filing may be disapproved if the rates in connection with the filing meet the requirements of this chapter.

(f) No filing or modification of a filing may be disapproved if the rates in connection with the filing meet the requirements of this chapter.

Current subsection is identical to proposed subsection (f).

3-18-82

(NIGHT
MEETING)

HB 832

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 18, 1982
7:15 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

HB 832 An Act relating to the regulation of
contractors; and providing for an effective
date.

WITNESS REGISTER

Joe Guthrie
725 Fifth Street
Juneau, Alaska 99801
586-6250
Position Statement: Supported bill.

George Imbsen
2113 2nd Street
Douglas, Alaska
364-2242
Position Statement: Supported need for bill.

Edith Brand
4617 River Road
Juneau, Alaska
465-4855
Position Statement: Supported need for bill.

Phil Morris
no phone or address given
Position Statement: Supported need for bill.

Jim McConaghy
Box 273
Auke Bay, Alaska
789-9547
Position Statement: Comments on previous testimony and on bill.

PREVIOUS ACTION

HB 832 See minutes of 3/2/82.

Statutory Reference: AS 08.01.010; AS 08.18

Action Taken: This was a special night meeting to allow Juneau area residents the opportunity to testify outside normal working hours. No formal action was taken.

ACTION NARRATIVE

Tape #40
Recording
Number 000

The meeting was called to order by Chairman Martin at 7:15 p.m. Members present were: Reps. Martin, Bylsma, Randolph, Rogers. Rep. Gardiner was absent. The purpose of the meeting was to allow Juneau area residents the opportunity to testify on HB 832 outside their normal working hours.

Number 017

Joe Guthrie said, since the last meeting, it seems there's an emerging consensus that elements of the bill will be enacted, but there is some doubt whether the surety fund will remain in the bill. He still supports the surety fund, but thinks the objective can be achieved in other ways. He has heard some contractors maintain that they should not have to pay for someone else's mistakes, but they carry other kinds of insurance, so this fund is not a novel idea. He felt the legislature has the prerogative to require it. He said there is a real need for some kind of risk pool.

Number 062

Guthrie said he has also heard contractors say problems would be solved if the existing laws were enforced. Guthrie felt that many problems have been caused by licensed contractors. He said many people are careful consumers. In many cases, the people injured have taken every precaution, but they often suffer losses because of gross negligence on the part of the contractor. He related his personal experience. Guthrie said the surety fund is really needed to protect consumers.

Number 120

Rep. Martin asked if small claims court could not clear up many of the problems Guthrie spoke of. Guthrie said the bill would provide for an adjudicator to hear claims cheaply and expeditiously, and said the courts aren't set up to provide this

quick, inexpensive service.

Number 150

The committee discussed Guthrie's particular situation. Rep. Bylsma noted there is no time limit provided in which claims can be brought. He said one could wait twenty years to make a claim, in some cases. This was discussed.

Number 175

George Imbsen told of his experience with a contractor. He began building a house, and hired a framing contractor. The contractor hired a subcontractor to do the roofing. The contractor then came to Imbsen for funds to pay the subcontractor; took the funds; never paid the subcontractor; and left town.

Number 227

Edith Brand said she had, over a period of time, had three houses constructed. She had no problems with the first contractor. On the second house, the contractor did not put in enough pilings. The house settled and warped (doors would not shut, etc.). She got a judgment against the piledriver, but still lost money. The house would have been worth \$90,000, but the Borough assessed it at only \$42,000. She contracted a third house to be built. Six months after the contractor began building, he presented her with a bill. She refused to pay a portion of the bill because he had not complete all the work. He refused to do the work she wanted; she refused to pay. The bank refused to finance the house because the contractor put a lien against it, so she had to pay construction loan interest for a year while the matter was in court.

Number 312

Rep. Rogers did not see how the bill would address Brand's situation. There was discussion. Rep. Rogers said, as provided in the bill, the process in a dispute would be the same as now exists--the matter would go to court, or, if the bill were enacted, might go before the administrative arbitrator. Rep. Bylsma suggested contacting the Consumer Protection Agency. Rep. Martin had questions about how Brand went about selecting her contractors.

Number 385

Phil Morris had a home built which was finished about a year ago June. The contractor estimated the house would cost \$100,000. Morris was paying the contractor

as work was being completed; by the time he had paid \$90,000, the house was not even fully framed. He lost money on the deal. Morris felt part of the problem was that, as a contractor's business grows, he spends less time personally supervising construction. He was also concerned that contractors aren't required to bond high enough to cover costs.

Number 471

Rep. Rogers said that was a good point, but that the problem with bonding for a small or new contractor was that bonding is not available. He said increasing bond requirements would be a barrier to new people getting into the business, because, as they cannot get bonds, they would have to put up cash, which most new or small businesses don't have. Rep. Rogers asked Rep. Randolph if there was any way to make it easier for new contractors to get bonding, so that the bonding limit could be raised. Rep. Randolph said the cost would be prohibitive, thousands of dollars per year. Jeff Barry, committee aide, suggested that basing the bond on the percentage of business the contractor does might be easier. Rep. Randolph felt the best approach was to have an effective, efficient, and economical arbitration system. He thought the arbitration process which might be established by the bill would be more efficient than the court system.

Number 585

Rep. Rogers suggested setting up a loan program for homebuilders associations to set up their own surety funds. This would give people the option of going to the homebuilders association, where they had some security in their investment, or of choosing a "fly-by-night" contractor. Rep. Randolph thought that was a great idea. Also, each association could set their own criteria, which would benefit the consumer.

Number 635

Jim McConaghy, president of Juneau Homebuilders Association, said the association would be represented at the teleconference, and would present formal recommendations and resolutions for the committee's consideration. In response to previous testimony, McConaghy said he would like figures on how many problems are caused by licensed contractors. He said he met

with the Department of Commerce and another agency, who indicated that the majority of problems were with unlicensed contractors. McConaghy gave examples. He wondered how far the state should go in protecting people from themselves. There was discussion.

Side B, Number 008

As there was no further business to come before the committee, the meeting was adjourned at 8:04 p.m.

Absent:
Gardiner

H. Labor & Commerce

3/18/82

HB 832 - Special night mtg

Tape #40

7:15

000 Call to order; mtg HB 832

017

Joe Guthrie - since last mtg, seems there's emerging ^{elements of} consensus, bill will be enacted, but some doubt whether surety fund will remain in bill. Still supports surety fund, but thinks objective can be achieved in other ways. Has heard contractors maintain they shouldn't have to pay for someone else's mistakes, but they carry other kinds of insurance, so this fund is not a novel idea, & legis has prerogative to require it. Real need for some kind of risk pool.

062

Has also heard contractors say probs wd be solved if existing laws were enforced; he thinks many probs have been caused by licensed contractors.

071

Many people damaged are careful consumers. In many cases, people injured take every precaution. Often suffer loss because of gross negligence. ~~Wesley~~ Have an example of his personal experience.

116

Surety fund is really needed; it's not the consumer's fault.

120

Martin asked if small courts claim cd clear this up. Guthrie said they are going to it, but bill wd provide ^{for} adjudicator to hear claims cheaply & quickly. Courts aren't set up to handle these problems expeditiously & cheaply.

- 150 ~~Bylsma asks~~ Discussion of Guthrie's particular sit'n. Bylsma noted no time limit for claims; could wait 20 yrs to make a claim in some cases.
- 175 George ~~Janson~~^{Imbison} - related personal experience.
 Began bldg house 5 yrs ago; hired framing contractor. One thing in contract was job shd be done in a timely manner. Contractor subbed roofing to another contractor; Contractor then asked for money to pay roofers, got it, & never paid roofers; subsequently left town.
- 207 Edith Brand - Contractor didn't put enough joistings in house; floor settled & warped (doors wdn't shut, etc) Got judgment against joistdrives, but still lost money. Wd have been \$90,000 house, but only worth \$60,000 w/ found'n prob. Average assessed it at \$42,000.
 - Built another house, contracted out. 6 mos after he began bldg, he presented bill; she wdn't pay a portion of bill because he hadn't completed everything. He refused to do work she wanted, she wouldn't pay. Bank wdn't finance house because he liened it. Had to pay construction loan 9% for a yr while matter was in court.
- 314 Rogers didn't see how bill wd address this; ^{Brand} Janson said, p 9, item 6, wd cover it. Discussion Rogers said, ^{process in a} dispute wd be same as process now - court (or, in bill, administrative arbitrator). Bylsma suggested CPA.

350 Martin asked how she selected contractors — 1st house, she knew guy; second house, went to Capp Homes; third house she bid.

385 ^{Morris} Phil Morris — had home built, finished abt a yr ago June. Estimated \$100,000; at \$90,000, house was not fully framed (he was paying contractor on demand). Had to put out \$50,000

Felt part of prob was, as contractors business grows, he spends less time personally supervising construction. Also concerned contractors aren't req'd to bond high enough to cover costs

471 Rogers said that's a good point, but prob w/ bonding for small, new contractor is it's not available. Barriers to new people getting into business, as, especially if bond reqmt is raised, because small businesses have to put up cash, & they don't have it.

503 Rogers asked Randolph if there was any way to make it easier for new contractors to get bonding, so that bonding limit can be raised.

Randolph said cost of 30-40,000 bond wd be prohibitive (thousands per yr.)

Barry said basing bond on %age of business might be easier. Randolph felt best approach was to have effective efficient concial arbitration system. Thought arbit'n process cd be established thought wd be more efficient than ct system.

585 Rogers suggested setting up loan pgm for homebuilders, to ^{assn} set up their own surety fund. This wd give people the option of going to assn or a fly by night operation. Randolph thought that was a great idea; each assn wd set their own criteria, which wd benefit consumers.

635 Jim Mc ^{Conaghy} ~~Conaghy~~, pres, gnu Homebuilders - Assn will attend teleconf w/ formal recommendations & resolutions.

Commented on tonight's testimony - re "lots of pblms caused by licensed contractors" - he'd like figures on that.

Met w/ dept of Commerce, who said majority of probs were with unlicensed contractors. Checked on ~~some other~~

~~past problems in the~~, per Phil Wolton. Have examples. Wondered how far state shd go in protecting people from themselves.

~~743 Randolph had gta's. Discussion~~

side B
008

~~Re~~ Martin adjourned public mtg 8:04 pm

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 3/18/80

Place: _____

| <u>Members</u> | <u>Present</u> | <u>Absent</u> | <u>Time Arrived</u> | <u>Time Left</u> |
|--------------------------|----------------|---------------|---------------------|------------------|
| Rep. B. Bylsma, V. Chair | _____ ✓ | _____ | 7:00 | |
| Rep. D. Randolph | _____ ✓ | _____ | 7:18 | |
| Rep. B. Rogers | _____ ✓ | _____ | 7:15 | |
| Rep. T. Gardiner | | | | |
| Rep. T. Martin, Chair | _____ ✓ | _____ | 6:30 | |

Subject Matter:

House Bill No. 832 _____

Senate Bill No. _____

Special Orders:

*Special night mtg to allow junau residents
to testify on bill*

3-22-82

H B 6 3 4

H B 6 3 9

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 22, 1982
1:45 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsza, Vice Chairman
Rep. Gardiner
Rep. Randolph
Rep. Rogers

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 634 An Act limiting the amount of damages which may be awarded for personal injury or death in an action brought against an ATC-registered air carrier.

HB 639 An Act relating to supplemental employee benefits; and providing for an effective date.

WITNESS REGISTER

Paul Arnoldt, Director
Division of Retirement
Pouch CR
Juneau, Alaska 99811
465-4460
Position Statement: Explained impact of HB 639.

Cherie Shelley
Alaska Public Employees Association
340 North Franklin
Juneau, Alaska 99801
586-2334
Position Statement: Supported concept of HB 639 and amendments proposed.

Ken Humphreys
Department of Administration
Pouch CR
Juneau, Alaska 99811
465-4460
Position Statement: Took part in discussion of HB 639.

Jim Dodson, Secretary
Alaska Aviation Safety Foundation
519 West Fourth Avenue
Anchorage, Alaska

Position Statement: Discussed HB 634; requested support for his group's programs.

PREVIOUS ACTION

HB 634

See minutes of 1/21/82 (teleconferenc.); and 2/26/82.

Statutory Reference: AS 09.65

Action Taken: Rep. Rogers moved to adopt a committee substitute which would increase taxes on aviation gas and jet fuel for a three-year period, with a letter of intent requesting increased fees go to the Alaska Aviation Safety Foundation, and recommending a Finance referral. Rep. Rogers withdrew motion.

Rep. Rogers moved to send a letter to the House Finance Committee recommending they increase the taxes, as proposed above, and add a letter of intent to a bill that is in their committee. There being no objections, the motion passed.

Rep. Rogers moved to table HB 634. There being no objection, the motion passed.

HB 639

No previous action.

Statutory Reference: AS 39.30.150

Action Taken: Rep. Rogers moved to delete subsection (d), on page 1, line 10-12, and replace with a new subsection (d). Motion passed by unanimous consent.

Rep. Rogers moved, page 1, line 24, to add section 2 through the end of SCS CSHB 121 to HB 639. There was objection. On the question: for--Rogers, Gardiner; opposed--Randolph, Martin, Bylsma. Motion failed.

Rep. Randolph moved to report CSHB 639 out of committee. Motion passed without objection.

Rep. Randolph moved the committee rescind its action on HB 639 for purposes of discussion. There was objection. Rep. Randolph withdrew his motion.

ACTION NARRATIVE

Tape #41
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:45 p.m. Members present were: Representatives Martin, Bylsma, Gardiner, Randolph, and Rogers. There were no members absent. SSHB 639 was brought before the committee for consideration.

Number 018

Rep. Randolph, prime sponsor of the bill, explained that he introduced the bill to maximize the employee's latitude with what they can do with their contribution to the supplemental benefits system upon termination.

Number 040

Paul Arnoldt, Director of the Division of Retirement, said currently, if there is more than \$1,000 in the employee's account, the money must remain in the account until age 55. The bill makes a distinction between the monies in the system (the employee's and the employer's). He said if the money isn't considered employee money, it is no longer tax sheltered. He felt subsection (d) should be changed to say, "on behalf of the employee", and that "under the terms of the State of Alaska Supplemental Annuity Plan" should be added to the end of that sentence. He then went over the history of the legislation and of the annuity fund.

Number 116

Rep. Rogers noted that the bill would leave the decision up to the employee. Rep. Rogers asked Rep. Randolph if it was his intent to pay one-half the amount in the employee's fund to the employee; Rep. Randolph said it was.

Number 130

Cherie Shelley, APEA, favored keeping the SBS program. She supported the concept of the bill and the amendments proposed. Rep. Rogers asked her opinion of other amendments to include optional methods to pay the money back to the employee, and making a provision for paying interest. Shelley agreed with those ideas. Arnoldt elaborated on how the IRS views the funds and how to provide various options to the employee.

Number 200

Rep. Rogers asked clarification about how the system would actually work, and gave an

example of a situation. Arnoldt explained and suggested different language for amendments. There was discussion.

Number 248

Rep. Rogers questioned whether the employee's decision about the money had to be made upon termination. Arnoldt said the employee can: 1) take the money on termination; or, 2) defer payment to some later date. He clarified the term, "constructive receipt". Ken Humphreys, Department of Administration, gave an example of a situation. There was discussion.

Number 306

Rep. Rogers moved to delete subsection (d) and replace with new language. Upon discussion, he withdrew the amendment and moved to delete subsection (d) and replace with: "(d) Upon termination of employment by an employee, the amount held on behalf of the employee in the Supplemental Annuity Account may be paid to the employee under the terms of the State of Alaska supplemental annuity plan upon application by the employee." The motion passed by unanimous consent.

Number 330

Rep. Rogers moved to add to page 1, line 24, of the bill, sections 2--end of SCS CSHB 121. There was objection. Rep. Rogers elaborated on his reasons for moving the amendment. Rep. Martin felt this could be better addressed later. Rep. Jardiner felt time was critical, given the fact that the session will soon be drawing to a close. On the question: for--Gardiner, Rogers; opposed--Randolph, Bylsma, Martin. Motion failed.

Number 383

Rep. Randolph moved to report CSHB 369 (L&C) from committee. Motion passed without objection.

Number 408

Rep. Randolph moved to rescind the committee's action on HB 639 for purposes of discussion. Rep. Gardiner objected. Rep. Randolph explained his reasons for moving to rescind. Rep. Rogers explained why the committee had acted correctly. Rep. Randolph withdrew the motion.

Number 433

The chairman then turned the committee's attention to HB 634. Rep. Rogers said he

felt the existing bill is unconstitutional, and that the only solution he had found was one he did not favor.

Number 454

Jim Dodson, secretary of Alaska Aviation Safety Foundation, testified regarding HB 634. He also introduced a letter to Jack Fuller from Tulinda Deegan, president of Alaska Air Carriers Association. He read Deegan's letter to the committee elaborating concerns with the bill.

Number 530

Rep. Rogers asked if there had been discussion of state-funded insurance or of the state working with an organization that wished to offer insurance. Dodson said state insurance was not favored. He said the approach they are working on is the Alaska Aviation Safety Foundation attempting to come up with a certification program.

Number 562

Rep. Gardiner said there had been discussion of self-insuring through a fund. Dodson said there had been discussion, but no action. He felt the air carriers did not have a large enough pool to self-insure. Dodson said they currently have a workers compensation group insurance, but that the plan was less than a year old, so they were not yet sure how it would work.

Number 602

Rep. Gardiner said the fishing industry had encountered the same problem of high insurance rates. He said they set up insurance pools, and that it had worked well. Rep. Gardiner noted that his insurance rate had dropped by half. He explained how the fishermen had set up their program. Gardiner felt a governmental entity could not legally disallow people access to such a pool the way private groups can; a private group could refuse to allow those with poor safety records. He recommended this method in the "best unwashed Libertarian tradition".

Number 665

Rep. Rogers agreed with Rep. Gardiner. He explained how he visualized this working. He said if Lloyd's would not fund it, perhaps the state should fund it until the insurance brokers do. He agreed with limiting attorney's fees. He recommended writing a letter to the Finance Committee urging funding of the Alaska Aviation Safety

Foundation.

- Number 718 Rep. Randolph agreed that the government should step in and get into the insurance company business in a big way. He spoke of pilots' relationship to the great Alaskan tradition.
- Side B, Number 006 Rep. Gardiner wondered about limiting attorney's fees—he was not sure the state could tell a citizen what he could do in terms of paying for anything. Rep. Randolph agreed.
- Number 014 Dodson said he would greatly appreciate discussion in Finance for continued funding of the Alaska Aviation Safety Foundation. He elaborated on a resolution passed by the Foundation and spoke of work done by the Foundation. He said they had unanimously asked the state to increase the tax on aviation gas and jet fuel in order to fund the Safety Foundation. He felt the tax should last for three years, after which they expect to be self-supporting.
- Number 050 Rep. Rogers moved to adopt a committee substitute for HB 634, which would contain a provision for increasing aviation gas tax to 4-1/2¢ and jet fuel tax to 2-1/4¢ for a three year period, with a letter of intent asking that the increased fees go to the Alaska Aviation Safety Foundation, and to encourage forming group insurance. Rep. Martin said he had assumed a bill was being used to do this. Rep. Rogers recommended doing it anyway. Rep. Rogers recommended requesting a Finance referral, as well.
- Number 074 Rep. Randolph preferred to send a letter of intent, rather than amend HB 634. Rep. Rogers said a letter of intent can't be done unless there is a bill. He suggested an alternative would be the committee sending a letter to House Finance recommending they add a letter of intent to a bill they have in committee, and he so moved. There being no objections, the motion passed.
- Number 089 Rep. Rogers moved to table HB 634. There being no objection, the motion passed.
- Number 092 Rep. Martin went over the committee's calendar. There was some discussion of