ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1790 SLC SB 62 - SB 151

1790

Effect of amendments. — The 1978 amendment substituted "personal leave" for "annual leave" in the first and second sentences of subsection (a).

The 1979 amendment, in subsection (a), deleted "as a lump sum" following "shall be allowed" in the first sentence, deleted "lump-sum" preceding "payment" in the second sentence, and added the third sentence; in subsection (b), the amendment inserted "balance of the" preceding "unused leave payment" and substituted "equal to the leave payment" for "equal to the compensation" in the first sentence and added "which has been paid to him" to the end of the first sentence, and in subsection (c), deleted "lump-sum" preceding "payment."

Sec. 39.20.255. Conversion of accrued annual leave to personal leave. An officer or employee who has accrued annual leave shall have that annual leave transferred to his personal leave account. (§ 8 ch 136 SLA 1978)

amended

Sec. 39.20.256. Transfer of accrued medical leave. (a) An officer or employee who has accrued medical leave shall have 40 per cent of that medical leave transferred to his personal leave account and 60 per cent of that medical leave transferred to a medical leave bank. Banked medical leave may be taken only in accordance with this section.

(b) An officer or employee may not take any of his banked medical leave unless

(1) he has no accrued personal leave; and

(2) he has a medical disability exceeding 10 consecutive working days in duration; or

(3) he has a medical disability exceeding 30 consecutive working days in duration.

(c) Once the requirements of (b) and (d) of this section have been met, an officer or employee may take banked medical leave until the medical disability is terminated or his banked medical leave is exhausted. If an officer or employee qualifies for banked medical leave under (b)(3) of this section, his banked medical leave may be taken for all working days of the medical disability following the 10th working day of the disability.

(d) When leave is taken under (b)(1) and (2) of this section, a department or agency head may require a doctor's certificate showing the disability. When leave is taken under (b)(3) of this section, the officer or employee must submit a doctor's certificate showing the disability.

(e) The taking of leave under this section shall be reduced by the amount of wage continuation payments made under the Alaska Workers' Compensation Act (AS 23.30).

(f) Upon an officer's or employee's separation from state service, his banked medical leave shall be cancelled without pay. (§ 8 ch 136 SLA 1978; am §§ 1 — 3 ch 52 SLA 1979; am § 60 ch 94 SLA 1980)

add section (g)

Effect of amendments. — The 1979 amendment, retroactive to July 9, 1978, in subsection (b), added "or" to the end of paragraph (2) and added paragraph (3); in subsection (c), inserted "and (d)" in the first sentence and added the second sentence; and in subsection (d), substituted "under (b)(1) and (2)" for

... note. — This section was ... AS 39.35.156.

...35.350. Reinstatement of credited service. (a) An ... receives a refund of contributions in accordance with AS ... forfeits corresponding service under this chapter.

... employee may reinstate credited service associated with a ... paying the total amount of the refund. Interest will accrue ... of the refund until repayment of the refund or retirement, ... occurs first. Payments will apply first to accrued interest ... principal.

... the date of retirement, an employee has not paid in full the ... his reinstatement indebtedness, he may irrevocably elect ... option one — to receive a refund of the principal paid on the ... indebtedness and forfeit the corresponding credited ... option two — to cancel the outstanding indebtedness due ... an actuarial reduction to the retirement benefit for life. ... SLA 1960; am § 3 ch 235 SLA 1968; am § 2 ch 81 SLA ... 30 ch 128 SLA 1977)

... of amendment. — The 1977 ... rewrote this section.

... 39.35.360. Earlier service. (a) An employee employed before ... 1, 1980, who completes three years of credited service with the ... after January 1, 1961, for which the employee makes ... contributions required by this chapter is entitled to credited service for ... rendered (1) before January 1, 1961, as an employee of the state ... Territory of Alaska; (2) before January 1, 1961, as an ... of the United States government in Alaska, excluding service ... armed forces of the United States; or (3) after January 1, 1961, ... peace officer or correctional officer of a participating political ... subdivision of the state if the employee is vested and is an active peace ... in the system as of July 1, 1980. The retirement benefits payable ... employee under this section shall be reduced by the amount of the ... pension benefits paid to him by the United States ... government for the same period of service.

... An employee who is entitled to credited service for employment ... January 1, 1961, is not required to make retroactive ... contributions under this chapter.

... [Effective until January 1, 1981] An elected state official who ... to participate in the system under AS 39.35.125 is entitled to ... credit for service rendered to the state or territory before 1961

... he pays contributions with respect to all his service rendered to ... state after January 1, 1961, and

(2) his service rendered to the state after January 1, 1961, totals three years or more.

Repealed by § 41 ch 146 SLA 1980, effective January 1, 1981.

(d) Repealed by § 2 ch 26 SLA 1974.

(e) An employee of a detention facility provided by a local government unit to the territorial or state government under AS 33.30.060, who continues in state employment upon transfer of the facility to the state, is entitled to credited service for his prior service with the facility if the employee remains in continuous employment with the state until July 1, 1976. To obtain credited service the employee is required to make retroactive contributions for the period of service between January 1, 1961 and the effective date of the transfer of the facility to the state.

(f) A surviving spouse receiving or entitled to receive a surviving spouse's pension under AS 39.35.440 or benefits under a joint and survivor option filed under AS 39.35.450 is eligible for increased benefits for any service credit authorized under (a) of this section, but not claimed or authorized by law before the employee's death.

(g) An employee is eligible to receive up to 10 years of credited service for service rendered before July 1, 1979, as a temporary employee of the legislature of the state or territory during legislative sessions. To receive retroactive credited service under this subsection, an employee must claim the service before July 1, 1980. When the employee claims the service, an indebtedness of the employee to the system shall be established. The amount of this indebtedness is equal to the contributions the employee would have made if he had been eligible for membership in the system. The rate used to calculate these contributions may not be less than the rate in effect on January 1, 1961. Interest as prescribed by regulation accrues on this indebtedness beginning July 1, 1980. Any outstanding indebtedness which exists at the time the employee retires will require an actuarial adjustment to the benefits which are based upon retroactive credited service under this subsection.

(h) An employee of the state is eligible to receive credited service as provided under AS 39.35.300(b) for service rendered as a permanent part-time employee before January 1, 1976. To receive retroactive credited service under this subsection, the employee must claim the service before July 1, 1981. When the employee claims retroactive credited service, an indebtedness of the employee to the system shall be established. The amount of this indebtedness is equal to the contributions the employee would have made if he had been eligible for membership in the system. The rate used to calculate the contributions may not be less than the rate in effect on January 1, 1961. Interest as prescribed by regulation accrues on the indebtedness beginning July 1, 1981. Any outstanding indebtedness which exists at the time the employee retires will require an actuarial adjustment to the benefits

... based on retroactive credited service under this subsection. ... SLA 1960; am § 4 ch 80 SLA 1964; am §§ 5, 6 ch 155 SLA ... ch 235 SLA 1968; am § 1 ch 55 SLA 1973; am §§ 1, 2 ch ... 1974; am §§ 1, 2 ch 245 SLA 1976; am §§ 31 — 33 ch 128 SLA ... 1, 7 ch 174 SLA 1978; am § 3 ch 81 SLA 1979; am § 10 ... SLA 1979; am §§ 31, 32, 41 ch 146 SLA 1980)

— add Sec. 39.35.365 - medical leave credit
— add Sec. 39.35.367 - personal leave credit

... note. — Subsection (a) of this ... apparently has no effect after ... since it applies only to ... employed before that date.

... of this section apparently ... after July 1, 1980, since ... service under this subsection ... have been claimed by that date.

... of amendments. — The 1976 ... among other things, added ... beginning "and heavy ... operators" to the end of that ... and added subsection (e).

The 1977 amendment, among ... substituted "credited serv... employment before January 1, 19... service credit for prior service" and "this ... for "this system for the period of ... service credit" in subsection (b) and substituted "credited service" for "service credit" in the first and second sentences of subsection (e).

The 1978 amendment, among other things, added subsection (f).

The second 1979 amendment added subsection (g).

Sections 31 and 32, ch. 146, SLA 1980, rewrote subsection (a) and added subsection (h). Section 41 of ch. 146, effective January 1, 1981, repealed subsection (c).

Editor's note. — Section 15, ch. 32, SLA 1979 provides that AS 39.35.360(g) applies to a temporary employee of the Eleventh Legislature, First Session, even though he may not be an employee under the public employee's retirement system on July 1, 1979.

Article 6. Benefits.

Section

... Retirement benefits
... [Repealed]
... Conditional service retirement benefits
... [Repealed]
... Voluntary contribution benefit
... Nonoccupational disability pensions
... Occupational disability pensions
... Nonoccupational death benefits
... Occupational death benefit
... Death after occupational disability
... Joint and survivor option
... Spouse survivor benefits under Public Employees Retirement Act of 1949
... Level income option
... Other forms of payment
... Postretirement pension adjustment

Section

480. Cost-of-living allowance
485. Minimum benefit
490. Designation of beneficiary
495. Time limit for application
500. Safeguard of employee funds held by the system
510. Voluntary waiver of benefits
520. Adjustments
522. Waiver of adjustments
525. Limitation on use of credited service as peace officer or fireman
530. Limit on pension
535. Medical benefits
540. Minimum benefit
545. [Repealed]
546. Tax exemption
547. Effect of amendments

Sec. 39.35.370. Retirement benefits. (a) A terminated employee is eligible for a normal retirement benefit (1) at age 55 with at least five years credited service, or (2) with at least 20 years of credited service as peace officer or fireman, or (3) with at least 30 years of credited service for all other employees.

(b) A terminated employee is eligible for an early retirement benefit at age 50 with at least five years credited service.

SYNOPSIS OF SENATE BILL NO. 62

SECTION 1

A terminated employee who is re-employed within three years of termination, would be allowed to reinstate his/her banked medical leave.

SECTION 2

Section (a) An employee, upon retirement, shall receive retirement service credit for all accrued medical leave, at the same rate of pay as his salary upon retirement.

Section (b) A vested employee (5 years of service), upon termination for reasons other than retirement, shall receive retirement service credit for all accrued medical leave.

SECTION 3

An employee, upon retirement, may elect to receive retirement service credit for accrued medical leave.

BACKGROUND MATERIAL

SECTION 1 applies only to those employees not represented by a collective bargaining agreement. A personal leave system covers these employees. At the time of conversion from the annual leave system to the personal leave system 60 percent of the employee's accrued medical leave was banked for his/her use in the event of a serious illness. Banked medical leave can only be used if the employee does not have accrued personal leave and he/she has a medical disability exceeding 10

consecutive working days or a medical disability exceeding 30 consecutive working days.

SECTION 2 is a non-negotiable item as the AG's office maintains that retirement is a non-negotiable item and may only be addressed by the legislature.

APEA's interest in this bill is a two-fold one that would prove beneficial to the state, as well as the employee:

1. Many employees retire with hundreds of hours of accrued medical leave left on the books to their credit. It is manifest then that the employee has been conscientious in the usage of medical leave. When this type of employee retires, he/she has garnered a working record of high productivity. It follows that productivity would increase and absenteeism would decrease if all employees received retirement service credit for accrued medical leave. Additionally, it would certainly serve as a retirement incentive goal to accrue as many medical leave hours as possible.
2. Under the present system, there exists a real temptation for some employees close to retirement, to abuse the use of medical leave. Passage of this bill would eliminate all possibility of this eventuality.

SB

63

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 63 by Ray

SEC 1: Terminated employee, with at least 20 years special credited service, is eligible for a normal retirement benefit.

SEC 2: An employee may contribute a percentage of compensation to his employee contribution account towards a 20 year special credited service retirement plan. The administrator will determine the percentage to be contributed by the employee. The employee may terminate his participation at any time and the amount contributed will be treated as a voluntary contribution.

FISCAL IMPACT: $50,000 for the modification of a new data processing system; One full-time employee (retirement benefit technician) $28,339 annual pay with benefits; One 6 month(temporary) (retirement benefit technician) at $11,436.

DEFINITIONS FOR PERS:

CREDITED SERVICE: The number of years (including fractional) recognized for computing retirement benefits.

DEFFERRED VESTED SERVICE: An inactive member who meets the 5 year credited service requirement to qualify for retirement benefits.

EARLY RETIREMENT: A member at least 50, with a minimum of 5 years credited service.

EMPLOYEE CONTRIBUTION ACCOUNT: An account maintained to record mandatory contributions of each employee, including interest and adjustments to the Account.

EMPLOYEE SAVINGS ACCOUNT: An account maintained to record voluntary contributions of each employee including interest and adjustment.

INACTIVE MEMBER: Employee who is terminated and has not received a refund contribution from the system, or layed off, or on leave without pay and has not received a refund.

NON VESTED MEMBER: An active or inactive member who does not meet the 5 year credited service requirement to qualify for retirement benefits.

NORMAL RETIREMENT: Retirement for a member at least 55 years old with a minimum fo 5 years credited service or a peace officer or fireman any age with 20 or more years credited service.

PRESCRIBED RATE OF INTEREST: Rate of interest used for computing employee contributions; preparing actuarial tables used by the system, and for crediting interest to employee contributions and savings accts., and for charging interest on employee indebtedness accounts.

RETIRED MEMBER: An employee who is terminated who has not received a refund from the system and is receiveing a benefit other than disability from the system.

VESTED MEMBER: ACTIVE MEMBER WHO MEETS THE 5 YEAR CREDITED SERVICE REQUIREMENTS TO QUALIFY FOR RETIREMENT BENEFITS.

Introduced: 1/13/81
Referred: Labor & Commerce
and Finance

IN THE SENATE BY RAY

SENATE BILL NO. 63

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act creating a 20-year retirement option for public employees."

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

* Section 1. AS 39.35.370(a) is repealed and reenacted to read:

(a) A terminated employee is eligible for a normal retirement benefit (1) at age 55 with at least five years credited service, or (2) with at least 20 years of credited service as a peace officer or fireman, or (3) with at least 20 years of special credited service, as provided in AS 39.35.355(c), or (4) with at least 30 years of credited service for all other employees.

* Sec. 2. AS 39.35 is amended by adding a new section to read:

new section Sec. 39.35.355. SPECIAL CREDITED SERVICE. (a) In addition to other contributions under this chapter, an employee may contribute to his employee contribution account a percentage of his compensation as determined by the administrator in accordance with (b) of this section.

(b) The administrator shall determine the percentage of compensation required from all participating employees to finance special credited service retirement. The administrator may not increase the required percentage of compensation without substantial actuarial justification.

(c) Credited service for which additional contributions are made under this section is special credited service. At the option of the employee, credited service as a peace officer or fireman shall be considered to be special credited service under this section.

(d) An employee may terminate his participation in special credited service at any time. Upon his termination, the amounts contributed for special credited service shall be treated as voluntary contributions made under AS 39.35.180.

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION
OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

March 12, 1981

Honorable Bob Mulcahy
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: SB 60, 61, 62, 63, 114

As requested by your office. the following information is provided pertaining to the bills listed above.

SENATE BILL 60: If this bill becomes law, the State's contributions to PERS and TRS will more than triple. Those systems are the most lucrative in the nation. The necessity of further enhancing retirement benefits that are already the highest in the nation by placing a monetary burden on the State for distribution of public funds to a disproportionately small group of its population is highly questionable. It is suggested that the large benefits that our retirees now enjoy or our existing employees can look forward to are in actuality a form of hedge against inflation.

SENATE BILL 61: If this bill passes, the cost to the State in FY 82 will be $15.8 million, and it will cost our political subdivisions $13.5 million. We project this cost to increase by at least 10 percent for each year thereafter. We question the need to increase benefits that are already the highest in the nation and the disproportionate distribution of public funds.

SENATE BILL 62: The minimal increase in retirement benefits that a small number of employees will receive as a result of credit for unused medical leave is outweighed by the cost to implement and maintain such a program. Only 30 percent of PERS employees will actually retire; and of that number, a small percentage will actually take advantage of such a provision. In most cases, their actual increase in benefits would be minuscule. Cost aside, as a matter of public policy we object to any proposal to credit unused sick leave for retirement purposes. Such a provision will not realistically serve as an inducement to not take sick leave. It would serve to "reward" those employees who are already quite properly not using sick leave unless it is actually necessary. We do not believe it will resolve any problem that may now exist with unwarranted absences.

02-69LH

SENATE BILL 63: The stated purpose of the Public Employees' Retirement System per AS 39.35.010 is ". . . to encourage qualified personnel to enter and remain in the service of the State or a political subdivision or public organization of the State. . . ." This bill would offer a means for employees to retire earlier than what is now allowed under the law, which certainly is contrary to the stated purpose of the system. Therefore, we are opposed.

SENATE BILL 114: This bill creates a level of management personnel within the merit system but outside collective bargaining. The result is to lessen the opportunity for conflicts of interest resulting from managers and subordinates belonging to the same bargaining unit. Another advantage is to remove the potential for strikes against the State by managers. The Department supports this bill.

I hope this provides the information you need. If you have further questions, please call me or Judy Crondahl at 465-2277.

Respectfully,

W. R. Hudson
Commissioner

WRH/mjc
cc: Judy Crondahl, Director
Division of Administrative Services

Paul B. Arnoldt, Director
Division of Retirement and Benefits

Sandra Withers, Director
Division of Labor Relations

Synopsis Senate Bill No. 63

Section 1

(3) A terminated employee is eligible for a normal retirement benefit with at least 20 years of special credited service.

Section 2

An employee may contribute to his/her employee contribution account a percentage of his/her compensation towards a 20-year special credited service retirement plan. The administrator will determine the compensation percentage to be contributed by the employee. The employee may terminate his participation in special credit service at any time and the amount contributed will be treated as a voluntary contribution.

Background Material

This provides the 30-year employee with an option of 20-year retirement, under a special credited service plan, whereby he/she, in addition to regular retirement contributions, may contribute to the special account, an amount determined by the administrator.

... based on retroactive credited service under this subsection. ... SLA 1960; am § 4 ch 50 SLA 1964; am §§ 5, 6 ch 155 SLA ... 4 ch 235 SLA 1965; am § 1 ch 55 SLA 1973; am §§ 1, 2 ch ... 1974; am §§ 1, 2 ch 245 SLA 1976; am §§ 31 — 33 ch 128 SLA ... 1, 7 ch 174 SLA 1978; am § 3 ch 51 SLA 1979; am § 10 ... SLA 1979; am §§ 31, 32, 41 ch 146 SLA 1980)

... note. — Subsection (a) of this ... apparently has no effect after ... since it applies only to ... employed before that date.

... (d) of this section apparently ... effect after July 1, 1960, since ... service under this subsection ... been claimed by that date.

... of amendments. — The 1976 ... among other things, added ... beginning "and heavy ... operators" to the end of that ... and added subsection (e).

... 1977 amendment, among other ... substituted "credited service for ... before January 1, 1961" for ... credit for prior service" and "this ... for "this system for the period of ... service credit" in subsection (b) and substituted "credited service" for "service credit" in the first and second sentences of subsection (e).

The 1978 amendment, among other things, added subsection (f).

The second 1979 amendment added subsection (g).

Sections 31 and 32, ch. 146, SLA 1980, rewrote subsection (a) and added subsection (h). Section 41 of ch. 146, effective January 1, 1981, repealed subsection (c).

Editor's note. — Section 15, ch. 52, SLA 1979 provides that AS 39.35.360 (g) applies to a temporary employee of the Eleventh Legislature, First Session, even though he may not be an employee under the public employee's retirement system on July 1, 1979.

Article 6. Benefits.

Section
Retirement benefits
[Repealed]
Occupational service retirement benefits
[Repealed]
Voluntary contribution benefit
Nonoccupational disability pensions
Occupational disability pensions
Nonoccupational death benefits
Occupational death benefit
Death after occupational disability
... and survivor option
... survivor benefits under Public Employees Retirement Act of 19..
... income option
Other forms of payment
Post-retirement pension adjustment

Section
480. Cost-of-living allowance
485. Minimum benefit
490. Designation of beneficiary
495. Time limit for application
500. Safeguard of employee funds held by the system
510. Voluntary waiver of benefits
520. Adjustments
522. Waiver of adjustments
525. Limitation on use of credited service as peace officer or fireman
530. Limit on pension
535. Medical benefits
540. Minimum benefit
545. [Repealed]
546. Tax exemption
547. Effect of amendments

Sec. 39.35.370. Retirement benefits. (a) A terminated employee is eligible for a normal retirement benefit (1) at age 55 with at least five years credited service, or (2) with at least 20 years of credited service as a peace officer or fireman, or (3) with at least 30 years of credited service for all other employees.

(b) A terminated employee is eligible for an early retirement benefit at age 50 with at least five years credited service.

...'s note. — This section was ... enacted as AS 39.35.156

Sec. 39.35.350. **Reinstatement of credited service.** (a) An employee who receives a refund of contributions in accordance with AS 39.35.200 forfeits corresponding service under this chapter.

(b) An employee may reinstate credited service associated with a refund by repaying the total amount of the refund. Interest will accrue from the date of the refund until repayment of the refund or retirement, whichever occurs first. Payments will apply first to accrued interest and then to principal.

(c) If, on the date of retirement, an employee has not paid in full the amount of his reinstatement indebtedness, he may irrevocably elect either (1) option one — to receive a refund of the principal paid on the reinstatement indebtedness and forfeit the corresponding credited service, or (2) option two — to cancel the outstanding indebtedness due by accepting an actuarial reduction to the retirement benefit for life. (§ 16 ch 143 SLA 1960; am § 3 ch 235 SLA 1968; am § 2 ch 51 SLA 1976; am § 30 ch 128 SLA 1977)

Effect of amendment. — The 1977 amendment rewrote this section.

→ insert Sec. 39.35.355

Sec. 39.35.360. **Earlier service.** (a) An employee employed before January 1, 1980, who completes three years of credited service with the state after January 1, 1961, for which the employee makes contributions required by this chapter is entitled to credited service for service rendered (1) before January 1, 1961, as an employee of the state and former Territory of Alaska; (2) before January 1, 1961, as an employee of the United States government in Alaska, excluding service in the armed forces of the United States; or (3) after January 1, 1961, as a peace officer or correctional officer of a participating political subdivision of the state if the employee is vested and is an active peace officer in the system as of July 1, 1980. The retirement benefits payable to an employee under this section shall be reduced by the amount of the retirement pension benefits paid to him by the United States government for the same period of service.

(b) An employee who is entitled to credited service for employment before January 1, 1961, is not required to make retroactive contributions under this chapter.

(c) [Effective until January 1, 1981] An elected state official who elects to participate in the system under AS 39.35.12[illegible] is entitled to receive credit for service rendered to the state or territory before 1961

(1) he pays contributions with respect to all his service rendered to the state after January 1, 1961, and

January 1, 1980, by the Department of Administration among the active members of the Public Employees' Retirement System. The amendment was adopted.

Legislative history report. — For report on ch. 159, SLA 1972 (FCCS HCS CSSB 264), see 1972 House Journal, p. 924.

Sec. 39.35.170. Employment contributions mandatory. Contributions of employees shall be made by payroll deductions. Every included employee shall be considered to consent to payroll deductions. It is of no consequence that a payroll deduction may cause the compensation paid in cash to an employee to be reduced below the minimum required by law. Payment of an employee's compensation, less payroll deductions, is a full and complete discharge and satisfaction of all claims and demands by the employee relating to remuneration of his services during the period covered by the payment, except with respect to the benefits provided under the system. (§ 8 b ch 143 SLA 1960; am § 3 ch 155 SLA 1966)

Negotiability of retirement system benefits. — Given AS 39.35.120(b) and this section, which make inclusion in the public employees retirement system (AS 39.35) a condition of employment for state employees and contributions to it mandatory, the conclusion is that the legislature intended the statutory provisions of the public employees retirement system to apply to all state employees, and benefits under the public employees retirement system may not be negotiated under the Public Employment Relations Act (AS 23.40.070—23.40.260). January 23, 1978, Op. Att'y Gen.

Sec. 39.35.180. Voluntary contributions by employee. In addition to the mandatory contributions required of an employee under AS 39.35.170, an employee may, during each calendar year he is participating in the system, voluntarily contribute to his employee savings account an amount not to exceed five per cent of his compensation for that year. (§ 8 c ch 143 SLA 1960)

Sec. 39.35.190. Disposition of contributions. Repealed by § 55 ch 128 SLA 1977.

Editor's note. — The repealed section derived from § 8 d, ch. 143, SLA 1960.

Sec. 39.35.200. Refund upon termination of employment for reason other than death. (a) An inactive employee, not on leave without-pay status or layoff status, is entitled to receive a refund of the balance of (1) his employee contribution account and (2) his employee savings account.

(b) If, upon termination of employment, an employee has credited service of less than five years and has less than $1,000 in his employee contribution account, a refund of the employee contribution account and the employee savings account must be made. An employee who is

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 63

Title An Act creating a 20-year retirement option for Public Employees

Requested by ______ Date ______

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Labor Services

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01 (PERS)

(Note: If more than one budget component is affected, separate line-item amounts and funding f[illegible] component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		39.8	30.0	31.8	33.8
200 TRAVEL					
300 CONTRACTUAL		52.7			
400 COMMODITIES		0.4	0.2	0.2	0.2
500 EQUIPMENT		1.8			
600 LAND & STRUCTURES					
700 STATE TRS MATCHING					
100 BENEFITS					
TOTAL	-0-	94.7	30.2	32.0	34.0

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND					
FEDERAL FUNDS					
VETERAN'S FUND					
FISH & GAME FUND					
HIGHWAY FUND					
AIRPORT FUND					
CAPITAL FUND					
PERS		94.7	30.2	32.0	34.0
TRS					

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME		1	1	1	1
PART TIME					
TEMPORARY		6 mo.			

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

1. Estimate that approximately 10,000 members could potentially qualify for benefits under this bill.

2. The cost to modify our new Data Processing System to provide for contributions [illegible] indebtedness payments for the Special Credited Service is estimated to be approximately $50,000.

3. The cost of the benefits provided under this bill would be paid by the members' contributions to the Special Credited Service Account.

4. One project employee (6 months) to initialize the program and one full-time emp[illegible] to maintain the program will be required..

5. Personal Services for the full-time employee increase at 6% per annum.

IV. DATE 2/24/81 PREPARED BY Paul B. Arnoldt, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) Senator Ray

Office of the Governor (Keith Specking)

1	POSITION TITLE: Retirement & Benefits Technician	RANGE/STEP: 12/B	BARG. UNIT.: G	LOCATION: Juneau	GOV.	APPROV.	DIS
2	TYPE OF POSITION: PFT / STAFF MONTHS: 12 / RP No. / PCN No.	PRIORITY		FORM 12 PAGE/LINE	LEG.		

	TYPE OF EXPENDITURE		AMOUNT
3	1	2	3
4	PERSONAL SERVICES: SALARY $1,814/month	$21,768	
5	BENEFITS 15.79%	3,437	
6	SBS 6.13%	1,334	
7	HEALTH INS. $150/month	1,800	
8	TOTAL PERSONAL SERVICES	01	$28,339
9	TRAVEL	02	
10	CONTRACTUAL LEASE SPACE COSTS		2,700
11	COMMODITIES	04	200
12	EQUIPMENT	05	1,800
13	OTHER		
14	TOTAL COST		$33,039

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER PERS	$33,039
21	CONTINUATION		FOR B&M USE ONLY
22	ADDITION		

4A. KEY NUMBER ______ COLUMN NO. ______

JUSTIFICATION:

This employee will be responsible for implementing the Special Credited Service program. This will involve ensuring that the data processing programs are establis[hed] for record keeping, that past service indebtednesses ar[e] calculated, that future service contribution rates for individuals are established, and that members are infor[med] and counceled regarding the Special Credited Service program.

AGENCY Administration PROGRAM Labor Services

BRU Retirement and Benefits

FY 82

2	Project	6		
3	TYPE OF EXPENDITURE		AMOUNT	JUSTIFICATION:
	1	2	3	
4	PERSONAL SERVICES: SALARY $1,761/month	$10,566		
5	BENEFITS 2.10%	222		
6	SBS 6.13%	648		
7	HEALTH INS.			
8	TOTAL PERSONAL SERVICES 01		$11,436	
9	TRAVEL 02			
10	CONTRACTUAL 03			
11	COMMODITIES 04		200	
12	EQUIPMENT 05			
13	OTHER			
14	TOTAL COST		$11,636	

JUSTIFICATION:

This employee will assist the full-time Retirement and Benefit Technician during the initial 6 months while this program is being implemented.

The employee will assist in answering questions regarding the Special Credited Services benefit, will calculat indebtednesses for past service eligible for credit under the Special Credited Services Account, and will establish the contribution rate for future service for individual members.

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1.03	
20		OTHER PERS	$11,636
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER ____________ COLUMN NO. ____

AGENCY Administration

PROGRAM Labor Services

BRU Retirement & Benefits

COMPONENT PERS

13 REQUEST FOR NEW POSITION

FY 82

Page 3 of 3

REVISED DATE ______

SB 63

S B

8 1

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 81 by Colletta

This bill increases the number of persons on the board of directors for the AHFC, providing for one additional member (public), and a contractor licensed under AS 08.18, to be appointed by the governor.

The bill further states that both the public member and the appointed contractor shall serve two year terms, however the public members' initial term shall be limited to one year, per Sec. 4

Both members shall receive $100 daily compensation while conducting official business of the corporation, plus reimbursement by the corporation for actual expenses at the same rate as persons serving on State Boards.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

POSITION ON SB 81:

In telephone conversation with Mr. Harry Goldbar, Director of the AHFC, he related his feelings were ambivalent concerning the expansion of the board of directors. Presently the board functions well, and the proposed expansion may possibly complicate getting members together, both physically and philosophically.

Mr. Goldbar also explained the only perceived difficulty with the appointment of a contractor would be a possible conflict of interest, i.e. having a "lobbyist" sitting on the board, however he emphasized that was merely a possibiltiy.

(e) Expansion of the program of the Alaska Housing Finance Corporation of purchasing insured and uninsured mortgage loans is essential to the economic growth of the state and the supply of adequate residential housing in the state.

(f) The legislature finds that enabling the Alaska Housing Finance Corporation to assist in financing the program of veterans' loans for residential housing in accordance with AS 26.15 and to expand its program of purchasing other mortgage loans serves a public purpose in benefiting the people of the state. The Alaska Housing Finance Corporation is empowered to act on behalf of the state and its people in serving this public purpose for the benefit of the general public. (am § 4 ch 151 SLA 1975)

Effect of amendment.
The 1975 amendment added subsections (d), (e) and (f).
As the rest of the section was not affected by the amendment, it is not set out.

Legislative history report.
For report on ch. 151, SLA 1975 (HCS CSSB 289 am H), see 1975 Senate Journal, p. 769; 1975 House Journal, p. 1275.

Sec. 18.56.020. Alaska Housing Finance Corporation. The Alaska Housing Finance Corporation is a public corporation and government instrumentality within the Department of Revenue, but having a legal existence independent of and separate from the state. The corporation may not be terminated as long as it has bonds, notes or other obligations outstanding. Upon termination of the corporation, its rights and property pass to the state. (§ 1 ch 107 SLA 1971; am § 78 ch 218 SLA 1976; am § 12 ch 106 SLA 1980)

Effect of amendments. — The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Commerce" in the first sentence.
The 1980 amendment, effective June 21, 1980, substituted "Revenue" for "Commerce and Economic Development" following "Department of" near the middle of the first sentence.

Editor's note. — For legislative findings and intent relating to the Alaska Housing Finance Corporation, see § 10, ch. 106, SLA 1980, in the 1980 Temporary and Special Acts and Resolves.

Sec. 18.56.030. Corporation governing body. (a) The corporation shall be governed by a board of directors consisting of

(1) the commissioner of revenue and the commissioner of commerce and economic development;

(2) one other member who is the head of the principal department of the executive branch of state government appointed by the governor; and

(3) two public members appointed by the governor.

(b) If a member described in (a)(1) or (2) of this section is unable to attend a meeting of the board, he may by an instrument in writing filed with the board, designate his deputy or assistant to act in his place as a member at the meeting. For all purposes of this chapter, the designee is a member of the board at the meeting.

(c) The board mem[...] serve two-year terms. [...] described in (a)(3) of [...]

(d) If a vacancy occ[...] appointment, effective [...] term.

(e) The members o[...] received $100 compens[...] the corporation and m[...] and necessary expens[...] boards under AS 39.20[...]

(f) (effective on th[...] constitution propose[...] appointment or reappo[...] or (a)(3) of this section [...] the members of the leg[...] to confirm the appointm[...] executive branch as a m[...] another principal depar[...] member, subject to con[...] appointed to fill a vac[...] confirmation under this [...] 151 SLA 1975; am § 79 c[...] §§ 13, 14 ch 106 SLA 19[...]

Effect of amendments. — [...] amendment substituted "six" f[...] the first sentence of this sec[...] existed prior to the 1978 amen[...]
The 1976 amendment s[...] "commissioner of commerce and [...] development" for "commiss[...] commerce" in the first senten[...] section as it existed prior to [...] amendment.
The 1978 amendment rew[...] section.
Section 13, ch. 106, SLA 1980 [...] July 1, 1980, rewrote the sectio[...] 14, ch. 106, SLA 1980, effectiv[...] effective date of an amendmen[...] Constitution of the State of Alas[...] provides for confirmation [...] legislature of appointments as pr[...] §§ 14 and 50 of this Act, added su[...] (f).
The amendment to the con[...] mentioned above is proposed [...] Legislative Resolve No. 43 to be su[...] to the voters at the 1980 general [...]
Editor's note. — Section 10, [...]

(c) The board members described in (a)(2) and (a)(3) of this section serve two-year terms. However, the initial appointment of one member described in (a)(3) of this section shall be for a one-year term.

(d) If a vacancy occurs on the board, the governor shall make an appointment, effective immediately, for the unexpired portion of the term.

(e) The members of the board described in (a)(3) of this section received $100 compensation for each day spent on official business of the corporation and may be reimbursed by the corporation for actual and necessary expenses at the same rate paid to members of state boards under AS 39.20.180.

(f) (effective on the effective date of the amendment to the constitution proposed in 1980 Legislative Resolve No. 43) The appointment or reappointment of a member to the board under (a)(2) or (a)(3) of this section is subject to confirmation by a majority vote of the members of the legislature in joint session. If the legislature fails to confirm the appointment of the head of a principal department of the executive branch as a member, the governor shall appoint the head of another principal department of the executive branch to serve as a member, subject to confirmation under this subsection. A member appointed to fill a vacancy under (d) of this section is subject to confirmation under this subsection. (§ 1 ch 107 SLA 1971; am § 5 ch 151 SLA 1975; am § 79 ch 218 SLA 1976; am § 1 ch 167 SLA 1978; am §§ 13, 14 ch 106 SLA 1980)

Effect of amendments. — The 1975 amendment substituted "six" for "four" in the first sentence of this section as it existed prior to the 1978 amendment.

The 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of commerce" in the first sentence of this section as it existed prior to the 1978 amendment.

The 1978 amendment rewrote this section.

Section 13, ch. 106, SLA 1980, effective July 1, 1980, rewrote the section. Section 14, ch. 106, SLA 1980, effective on the effective date of an amendment to the Constitution of the State of Alaska which provides for confirmation by the legislature of appointments as provided in §§ 14 and 30 of this Act, added subsection (f).

The amendment to the constitution mentioned above is proposed in 1980 Legislative Resolve No. 43 to be submitted to the voters at the 1980 general election.

Editor's note. — Section 10, ch. 167, SLA 1978 provides: "Section 1 of this Act affects the terms of the public members of the board of directors of the Alaska Housing Finance Corporation who are serving on the effective date of this Act. Not later than 30 days after the effective date of this Act the governor shall determine the length of the term of the members of the board of directors of the corporation serving on the effective date of this Act and, by letter directed to the president of the Alaska Legislative Council, designate the members whose terms shall end on the date provided in § 1 of this Act during 1979, 1980, and 1981. The terms of the members of the board of directors serving on the effective date of this Act shall terminate on the date designated by the governor in his letter, and thereafter, members of the board shall be appointed in accordance with the provisions of this Act."

Legislative history report. — For report on ch. 151, SLA 1975 (HCS CSSB 289 am H), see 1975 Senate Journal, p. 769; 1975 House Journal, p. 1275.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

SB 81

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SENATE BILL NO. 81
Title "An Act increasing the number of directors of the Alaska Housing Finance Corp."
Requested by Senate Finance Committee Date 1/14/81
Senate Labor & Commerce Committee

II. FISCAL DETAIL

Agency Affected Department of Revenue
Program Category Affected Economic Development
BRU, Program, or Subprogram(s) Affected Alaska Housing Finance Corporation
(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL		9.8	10.8	11.9	13.1	14.3
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	9.8	10.8	11.9	13.1	14.3

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	-0-	9.8	10.8	11.9	13.1	14.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

The legislation provides for two additional public members. Above costs include $100 per day compensation for meetings, 12 meetings per year; travel and per diem related to attendance.

IV. DATE January 26, 1981 PREPARED BY Anselm C. Staack, Treasury Comptroller
AGENCY Department of Revenue, Treasury Division
PHONE 465-2351

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

S B

8 5

COMMITTEE REPORT

SENATE

FURTHER: None

1/15/81

Date: 23 MARCH 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 85

permitting a minor under age of 18 to be employed in occupation in which a strike or lockout is in progress

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for ______ [ ] same title [ ] new title

and recommends ______

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the ______ Committee

MEMBERS SIGNING DO PASS

Bob Mulcahy

MEMBERS HAVING OTHER RECOMMENDATIONS:

[signature] - No Rec.

Fahrenkamp - No Rec

[signature] no rec

Bob Mulcahy
CHAIRMAN

S 60 (Rev. 12/78)

Minors can picket, can't work

by Clark Brooks
Times Writer

Kids are people, too, goes the civil liberties cry, but a state labor law has some Anchorage youngsters wondering about their rights.

The Proctor's Grocery chain, whose Retail Clerks Union employees have been on strike since late August, was forced to lay off 15 teen-age box boys and maintenance workers Wednesday because of a state law that says its too dangerous for minors to cross picket lines. However, the law does not prohibit minors from picketing.

"It sounds to me like it's a violation of equal protection." Anchorage attorney Collin Middleton said today. "If you have a law that says it's OK to picket but not OK to work, how do you justify that?"

"I'm highly upset," said Robert Swanson, whose son Darrell Kampstra is among those out of a job today. "If a minor can picket, there's no reason he can't work. Darryl has worked at Proctor's a year and a half and never missed a day. I'm willing to get the other parents together, get a lawyer and take this thing to court."

Another youngster who lost his job, 15-year-old Scott Edgar, said the law violates his civil rights. He also criticized the law's double standard and questioned its validity.

"I feel that it's not right at all," he said today. "If I'm not allowed to work then why are kids under 18 allowed to picket? The law says it's dangerous to be working because you'll get beat up or something by the picketers. But it's not like that. I know most of the people picketing and they wouldn't hurt anybody."

Edgar, who earned $4.20 an hour as a box boy, called the state Department of Labor to find out why minors can picket but aren't allowed to work. He was told that the union assured the Labor Department that no minors were on the line. Union labor relations consultant Bob Bacolas Sr. told The Times this morning that he didn't know of any minors picketing.

Edgar, however, said there were several, including his neighbor, 16-year-old Kevin Spannagel. Linda Spannagel, Kevin's mother, confirmed today that her son has been picketing.

State Department of Labor official Dale Cheek said this morning that minors "have a right to picket but don't have a right to work." The reason he said, is that the youngsters on strike are not on the Proctor's payroll. The Labor Department, Cheek said, is investigating reports that the union has hired minors to picket, which is illegal.

Proctor's owner Orville Proctor said his main concern is how the layoffs will affect the youngsters.

"I think these kids are getting punished more than anyone else. That's the thing I hate about it. It's hurting the kids. It's not really hurting our company that much."

Parry Grover, Proctor's attorney, said the company has requested the Labor Department to review the matter. However, he said he doesn't intend to take the issue to court.

Grover said he was surprised when the state ordered enforcement of the law.

"It's been on the books a long time," he said, "and my understanding is that it's usually overlooked. This time it wasn't."

The Labor Department ordered the layoffs after receiving from Proctor's a routine request to approve employment of two minors,

October 7, 1980

8215 East Second Avenue
Anchorage, AK 99504

Senator M.E. Dankworth
2425 Hialeah Drive
Anchorage, AK 99503

Dear Senator Dankworth:

Our son James G. Anderson has been working part-time for Proctors Country Supermarkets in Anchorage since August of 1978. This includes part-time during the school year and approximately 30 hours per week during the summer school vacation. In August 1980 the Retail Clerk's Union went on strike against Proctors. Our son decided to cross the picket line and continued to work. On October 1, 1980 our son was layed off based on the State Department of Labor's notifying Proctors that it was illegal for a minor to work in a business establishment where a strike is in progress "8AAC 05.250" which reads as follows:

> OCCUPATIONS IN ANY INDUSTRY WHERE A STRIKE OR LOCKOUT IS IN PROGRESS. Work in any industry where a strike or lockout is in progress is dangerous and prohibited to minors under 18 years of age.

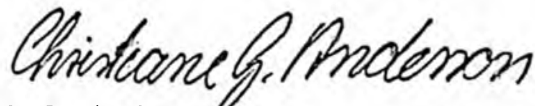
The law is clear and it's simply forced Proctors to take action by laying off all employees under 18 years of age. Interestingly enough the law does not apply to the striking picketers. The Retail Clerk's Union has a number of picketers under the age of 18 who continue to picket, continue to be paid and even continue to receive work credit from the local high school. In our son's case he loses this work credit.

As you might guess it's pretty difficult to convince a 17 year old that the system is fair when juvenile strikers can picket, get paid and receive school credit but the person who crosses the picket line and supports private enterprise gets layed off and loses salary, benefits and school credit. We've taught our son to be law abiding and support private enterprise but these obvious contradictions in the law make it difficult.

My recommendations are that 8AAC 05.250 be repealed. I believe that parents and employers can make a fair determination on the danger to juveniles during a strike situation and take appropriate action. An alternative course of action would be to modify the regulation to include all juveniles both picketers and working employees but I strongly feel the first course of action is the best.

I urge you to take whatever action necessary to repeal this unfair labor orientated regulation that makes no sense to private enterprise or the general public. Thank you in advance for your support.

Sincerely yours,



C.G. Anderson

CGA/cn

Proctor's Grocery

7943 Duben St. Anchorage AK 99504 • Phone 333-8488

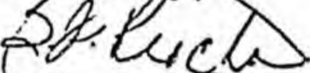
October 6, 1980

Senator Ed Dankworth
2425 Hialeah Drive
Anchorage, Alaska 99503

Dear Senator Dankworth;

I am writing with reference to the labor law that has recently been enforced at our grocery stores in regard to the minors not being able to work due to the current strike but yet they can carry a picket sign. If in fact this law was made to protect the youth from violence during a strike how then can we justify allowing them to be right in the firing line?? Also, are there so many "violent" actions taken during strikes to warrant a law that tells our young people it's better to walk a picket line than to earn a days pay for a days work? Then too I think this law is extremely discriminitory..If age nineteen you can work but if you happen to be seventeen you may not. I am not a parent but certainly concerned with the welfare of the young people and I sure don't think this law is doing them any kind of justice. At the age of seventeen it would not be too far out to think that some of these kids are buying cars or even not living at home. How are they to meet their responsibilities? I urge you to do your best to get rid of this unreasonable law. Thank you very much for any help you can give the kids.

Sincerely,



Bonnie J. Proctor

MEMORANDUM State of Alaska

TO: Dale Cheek
Wage & Hour Division
Department of Labor

DATE: January 5, 1980

ALASKA DEPT. LABOR
RECEIVED
JAN 6 '81

FILE NO: J-66-354-81

TELEPHONE NO: 465-3603

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Minor's Right to Work During Strike

By: [signature]
Bruce M. Botelho
Assistant Attorney General

You have requested that this department review the legal basis of 8 AAC 05.250. That regulation provides:

> 8 AAC 05.250. OCCUPATIONS IN ANY INDUSTRY WHERE A STRIKE OR LOCKOUT IS IN PROGRESS. Work in any industry where a strike or lockout is in progresss is dangerous and prohibited to minors under 18 years of age.

AS 44.62.030 declares in part that "no regulation adopted is valid or effective unlesss consistent with the statute and reasonably necessary to carry out the purpose of the statute."

The cited authority for 8 AAC 05.250 is AS 23.10.350 and AS 23.10.360. There are set forth below:

> Sec. 23.10.350. EMPLOYMENT OF CHILDREN UNDER 18. (a) No minor under 18 years of age may be employed or allowed to work
>
> (1) more than six days a week;
>
> (2) in hazardous excavation, or underground in mines; or as hoisting engineer in mines; or
>
> (3) in an occupation dangerous to life or limb or injurious to his health.
>
> (b) If the commissioner determines that the duties to be performed by the minor would not unduly endanger the life, limb, or health of the minor and if the employment meets the conditions of wages and hours prevailing for the majority of the employees in the industry at the time of employment, the commissioner may grant an exemption in writing from (a) of this section for a minor 16 - 18 years of age

02-001A(Rev.10/79)

at those duties

(1) outside school hours, or while on school vacation, if the minor is attending school; or

(2) if the minor is no longer attending school.

Sec. 23.10.360. REGULATIONS FOR MINIMUM STANDARDS AND WORK OPPORTUNITIES. (a) The department may, from time to time after public notice and hearing, promulgate rules, regulations and orders establishing minimum standards for safety, working conditions, kind and extent of work in various phases of the respective fields of employment, maximum hours for the day and week, and minimum rates of pay, and other reasonable safeguards compatible with the welfare of all minors covered by §§ 325 - 370 of this chapter.

(b) The department shall make cooperative arrangements with other state and federal agencies and shall promulgate the regulations which are necessary to provide opportunities for work experience in safe and healthful occupations for minors.

(c) The department shall, after notice and hearing, promulgate regulations authorizing the employment of minors under 18 years of age and exempting appropriate employers from the reporting requirements of § 332 of this chapter.

While AS 23.10.350 does not appear to support 8 AAC 05.250, AS 23.10.360 expressly confers authority on the department to adopt regulations providing for "reasonable safeguards compatible with the welfare of. . . minors."

In 8 AAC 05.250 the department determined that minors should not be employed on business premises during a strike or lockout because of the risk of violence. This determination is compatible with AS 23.10.360 and the general purpose of child labor laws, to prevent injury to minors. Ramos v. County of Madra, 94 Cal. Rptr. 421, 484 P.2d 93 (Cal. 1971), Lopanic v. Berkeley Cooperative Gin Co., 191 S.2d 108 (Miss. 1966).

We do not believe a significant equal protection issue is raised by the mere fact that minors may take part in a strike while being prohibited from working on the premises in light of the fact that the legislature has conferred authority on the department only to regulate the employment of minors.

BMB/jal

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM March 23, 1981

SUBJECT: Minor picketing
(Work Order No. 12-1204) SB 85

TO: Senator Bob Mulcahy

FROM: Linn H. Asper
Legislative Counsel

You have asked if a statute prohibiting persons under the age of 18 from picketing in a peaceful strike or lockout will present constitutional problems with regard to picketing. The general rule is:

> A statute or ordinance may, in the exercise of police power, authorize, and reasonably restrict and regulate, picketing, in order to avert some definite substantial danger clearly arising from the picketing, provided it does not deprive the citizen of his fundamental rights. Regulation by statute or ordinance must have a reasonable basis, and the regulations limiting or restricting the picketing must not be unreasonable or discriminatory. 51A C.J.S., Labor Relations, sec. 267.

Although the state has power to restrict the activities of minors, it appears that the restriction posed by your request is without justification. A peaceful strike presents no inherent substantial danger to a minor, and restricting the minor's right to participate would clearly deprive him of the fundamental right of freedom of expression. A Supreme Court case discusses in detail the types of things which constitute a reasonable basis for restricting the right to picket. These include prevention of disorder, restraint of coercion, protection of life or property, and promotion of general welfare. Edwards v. Commonwealth, 60 S.E.2d 916, 191 VA 272. There appears to be no connection between these justifications for restricting a minor's right to picket and to participate in a peaceful strike.

It has also been held that a state may enjoin peaceful picketing if it is done to enforce a valid public policy. Burr v. N.L.R.B., 321 F.2d 612 (1963). Again, there appears to be no policy sufficient to justify arbitrary discrimination against laborers under the age of 18.

One qualification to my opinion that minors cannot be barred from picketing in a peaceful strike is that determining that a strike is going to be peaceful may be quite difficult, and if there is even a moderate risk that the picketing could result in violence, the state could step in to protect minors by refusing to allow them to participate in a potentially dangerous situation.

LHA:ljb

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811
Phone: 465-2700

January 20, 1981

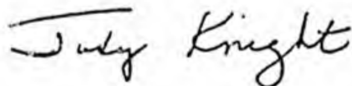
Honorable M. E. Dan[illegible]h
Alaska State Senator
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Senator Dankworth:

Enclosed for your information is a Department of Labor Position Paper on Senate Bill 85, which deals with the employment of minors in work-places where a strike or lockout is in progress.

If you have any questions, please let me know.

Sincerely,



Judy Knight
Legislative Liaison

Enclosure

cc w enc: Senate Labor & Commerce Committee

JAN 21 1981

07-09LH

Bill No. Senate Bill 85 | Date January 20, 1981

Title "An Act permitting a minor under the age of 18 to be employed in an occupation in which a strike or lockout is in progress."

Contact: Judy Knight 465-2700 Dale W. Cheek 465-4870

This bill would clarify AS 23.10.350(3) in that it would specify that a minor under the age of 18 working in a place where a strike or lockout was in progress would not necessarily be in "an occupation dangerous to life or limb or injurious to health" per se. This would also bring our law into conformity with the Fair Labor Standards Act because that act and the regulations promulgated to implement it do not prohibit a minor from working in a place where a strike is in progress, if the occupation is otherwise permissible.

If this bill is passed into law it would appear that the Commissioner of Labor could still determine that a minor working where a strike or lockout was in progress could be endangered if that particular strike or lockout manifested into violence or because of the intensity of the situation. So, under certain conditions minors could still be prohibited from working in strike situations.

Departmental Position: Neutral

Fiscal Impact: -0-

POSITION PAPER/Department of Labor

STATE OF ALASKA

DEPARTMENT OF LABOR

WAGE AND HOUR DIVISION

JAY S. HAMMOND, GOVERNOR

P.O. BOX 630
JUNEAU, ALASKA 99811
PHONE: (907) 465-4870

January 9, 1981

The Honorable Ed Dankworth
Alaska State Legislature
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Re: 8 AAC 05.250 OCCUPATIONS IN ANY INDUSTRY WHERE A STRIKE OR LOCKOUT IS IN PROGRESS.

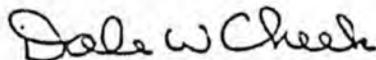
Dear Senator Dankworth:

A member of your staff, Ms. Theresa Friend, who was doing research on the regulation in question requested that I furnish you with a copy of the Attorney General's Opinion. I have just recently received a copy of Mr. Bruce M. Botelho's Opinion File No. J-66-354-81.

The opinion by Mr. Botelho sets out the Department position that was followed throughout this strike at Proctor's. I felt from the first that we had no authority over those minors who volunteered to walk the picket line as long as they did not received a salary; because the Statutes and Regulations refer to "employed by", "working at", and other terms relating to a employer/employee relationship. Although it appeared to be blatantly unfair to remove minors who were working and allow minors to picket I did not think then and I do not think now that the Department of Labor had any authority over those volunteer pickets.

If you are contemplating revisions to the Statutes or Regulations, I would appreciate the opportunity to work with your staff. If I can be of further service in this matter, please advise.

Very truly yours,



Dale W. Cheek
Director
Wage and Hour Division

DWC/jep
cc: Commissioner Orbeck
Enclosure

07-G27LH

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Summary - SB 85 by Senator Dankworth

"An Act permitting a minor under the age of 18 to be employed in an occupation in which a strike or lockout is in progress."

Title explains intent of legislation. No fiscal impact. This subsection permits a minor to work where a strike is in progress but requires the Commissioner of Labor's approval as to the safety of the situation.

The Department of Labor has provided a position paper in which they state that they are neutral regarding the subject.

Attached:
Copy of the Bill
Copy of the affected Statute
Dept. of Labor Position Paper
Backup material relating to reason for legislation

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

March 23, 1981

COMMITTEE MEETING MINUTES

The meeting was called to order at 3:09 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 200 "An Act relating to the fisheries business tax (AS 43.75.015); and providing for an effective date."

Senator Dick Eliason addressed SB 200, explaining the background of the fisheries business tax, and that the tax is retroactive for two years. (tape reading 010 to 272)

Mr. Gary Jenkins, Director of the Audit Division, Department of Revenue testified on the problems with administrating the bill; fish buyers are not always identifiable. Suggested language-salmon must be sold to a licensed processor; easier to administer. (tape reading 275 to 458)

Mr. Lewis Schnaper representing the Alaska Trollers Association testified in support of SB 200, stating that the class of fishermen who have made substantial investments, 50 to 75 trollers with freezing capacities would be impacted; less economical to freeze but the quality speaks to the need. The Canadians recognize the value of sea frozen salmon, and it is the most effective use of a fishermans fuel.

Senator Pat Rodey offered proposed language; frozen salmon must be transferred to a licensed buyer.

Chairman Mulcahy moved we accept Senator Rodeys amendment and move SB 200 as amended. (tape reading 570)

Next on the agenda was SB 81 "An Act increasing the number of directors of the Alaska Housing Finance Corporation."

This bill was brought up for discussion; Senator Ziegler questioned the need for the bill, Senator Mulcahy offered background on the bill, and it was decided to hold the bill for later. (tape reading 580 to 630)

Next on the agenda was SB 85 "An Act permitting a minor under the age of 18 to be employed in an occupation in which a strike or lockout is in progress."

Chairman Mulcahy offer background testimony, and addressed the constitutionality of the rights of minors to picket. Chairman Mulcahy proposed we move the bill and Senator Hohman recommended the bill move from Committee. (tape reading 634 to 653)

Next on the agenda was SB 282 "An Act relating to the legal rate of interest."

Mr. Fred Koken, First Vice-President of Foster and Marshall testified on SB 282, elaborating on the problems with SB 19 usury rates, and how the bill did not reflect the needs of his industry. The policy on interest at Foster & Marshall is dictated by competition in the industry. (tape reading 678 to 830)

Committee ~~action on~~ moved SB 282 ~~was "Do Pass~~"

Next on the agenda was SB 172 "An Act relating to Unifor Commercial Code filings; and providing for an effective date."

There was no testimony and it was recommended that we hold the bill for further work. (tape reading 660 to 669)

The meeting was adjourned by Chairman Mulcahy at 3:50 P.M.

Editor's note. — The repealed section derived from § 7, ch. 117, SLA 1965.

Article 7. Employment of Children.

Section
332. Authorization for children under 17 to work
340. Children under 16
345. [Repealed]

Section
350. Employment of children under 18
355. Persons under 19
360. Regulations for minimum standards and work opportunities

Sec. 23.10.332. Authorization for children under 17 to work. Except for employment exempted under AS 23.10.330 and other employment specifically exempted by regulations adopted by the department, no minor under 17 years of age may be employed or allowed to work without the written authorization of the commissioner unless authorized under AS 23.10.360. The department shall adopt regulations necessary to implement this section. (§ 3 ch 112 SLA 1976)

Sec. 23.10.340. Children under 16.

(b) Repealed by § 7 ch 112 SLA 1976.

(am § 7 ch 112 SLA 1976)

Effect of amendment. — The 1976 amendment repealed subsection (b), which read "No minor under 16 years of age may be employed or allowed to work in a restaurant."

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 23.10.345. Exemptions for minors over 16 or who have graduated from high school.

Repealed by § 7 ch 112 SLA 1976.

Cross references. — As to authorization for children under 17 to work, see AS 23.10.332. As to employment of children under 18, see AS 23.10.350. For provisions authorizing employment of minors on licensed premises of a hotel or restaurant, see AS 04.15.020(h).

Editor's note. — The repealed section derived from § 2, ch. 73, SLA 1949; § 1, ch. 28, SLA 1951; § 1, ch. 26, SLA 1964.

Sec. 23.10.350. Employment of children under 18. (a) No minor under 18 years of age may be employed or allowed to work

(1) more than six days a week;

(2) in hazardous excavation, or underground in mines; or as hoisting engineer in mines; or

(3) in an occupation dangerous to life or limb or injurious to his health.

(b) If the commissioner determines that the duties to be performed by the minor would not unduly endanger the life, limb, or health of the minor and if the employment meets the conditions of wages and hours prevailing for the majority of the employees in the industry at the time

of employment, the commissioner may grant an exemption in writing from (a) of this section for a minor 16 — 18 years of age to work at those duties (C)

SB 85

(1) outside school hours, or while on school vacation, if the minor is attending school; or

(2) if the minor is no longer attending school. (§§ 2, 3 ch 73 SLA 1949; am §§ 1, 2 ch 28 SLA 1951; § 4 ch 73 SLA 1949; am § 84 ch 127 SLA 1974; am § 4 ch 112 SLA 1976)

Effect of amendments. — The 1974 amendment deleted "if the minor is a girl" from the beginning of paragraph (3) of this section as it existed prior to the 1976 amendment.

The 1976 amendment rewrote this section.

Premise behind present paragraph (3) of subsection (a). — The child labor laws, and present paragraph (3) of subsection (a) of this section in particular, are premised in part on the notion that a child is not competent to assess the risks of personal injury and exploitation attendant in the performance of hazardous activities. Whitney-Fidalgo Seafoods, Inc. v. Beukers, Sup. Ct. Op. No. 1277 (File No. 2654), 554 P.2d 250 (1976).

Illegally-employed child may assert common-law rights against employer. — Where an employer has knowingly entered into an illegal contract of employment with a child, in express violation of a statute, the employer will not be permitted to insist that a child is an "employee" within the terms of the Workmen's Compensation Act so that the child can no longer assert its common-law rights against the employer. Whitney-Fidalgo Seafoods, Inc. v. Beukers, Sup. Ct. Op. No. 1277 (File No. 2654), 554 P.2d 250 (1976).

Absent any evidence of a conscious intent on her part to choose compensation benefits, an illegally employed minor cannot be held to have waived her right to a common-law remedy. Whitney-Fidalgo Seafoods, Inc. v. Beukers, Sup. Ct. Op. No. 1277 (File No. 2654), 554 P.2d 250 (1976).

And AS 23.30.055 does not bar common-law damage action by such child. — AS 23.30.055, the exclusive liability provision of the Alaska Workmen's Compensation Act, does not bar a common-law damage action when such an action is brought against an employer by a person who was employed in violation of child labor laws at the time of injury. Whitney-Fidalgo Seafoods Inc. v. Beukers, Sup. Ct. Op. No. 1277 (File No. 2654), 554 P.2d 250 (1976).

Sec. 23.10.355. Persons under 19. No person under 19 may be employed or allowed to sell or serve intoxicating liquors or to work in any room or other place where intoxicating liquors are sold for consumption on the premises, except as provided in AS 04.15.020(h). (§ 3 ch 73 SLA 1949; am § 2 ch 28 SLA 1951; am § 24 ch 245 SLA 1970; am § 5 ch 112 SLA 1976)

Effect of amendment.
The 1976 amendment substituted "AS 04.15.020(h)" for "AS 04.15.020(d)" at the end of the section.

Sec. 23.10.360. Regulations for minimum standards and work opportunities.

(c) The department shall, after notice and hearing, promulgate regulations authorizing the employment of minors under 16 years of age and exempting appropriate employers from the reporting requirements of § 332 of this chapter.
(am § 6 ch 112 SLA 1976)

SB

114

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

March 11, 1981

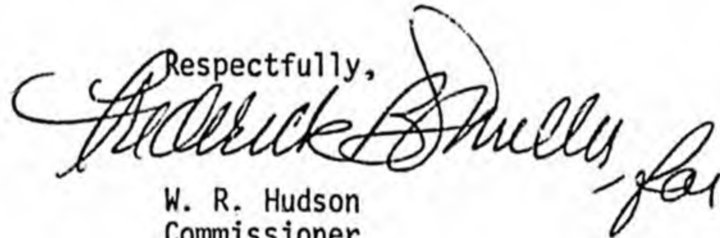
Mr. Michael Thill
Senate Labor and Commerce
Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Thill:

At your request, we offer the following information concerning Senate Bill 114.

There are approximately ninety partially exempt division directors; fifty deputy directors and assistant directors and possibly an additional 100 to 150 employees with a similar level of authority. The division directors are currently not represented for the purposes of collective bargaining.

Respectfully,



W. R. Hudson
Commissioner

WRH/mjc

02-B9LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811

Ph: 465-2700

February 23, 1981

Mr. Mike Thill
Labor and Commerce Committee
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Mike:

Per your request, attached is a position paper on Senate Bill 114, "An Act relating to the scope of collective bargaining under the Public Employment Relations Act."

If you have any questions, please advise.

Sincerely,

Judy

Judy Knight
Special Assistant

07-G9LH

Bill No. Senate Bill No. 114

Date February 23, 1981

Title "An Act relating to the scope of collective bargaining under the Public Employment Act."

Contact: Judy Knight JK
Ph: 465-2700

The Department of Labor has in its employ personnel classified at the deputy director and assistant director levels, and supports the proposed change in this bill which would exclude personnel in these classifications from the scope of collective bargaining. These employees are key management officials essential to departmental operation, particularly in the event of a strike of State employees.

The bill does not appear to have any effect on the departments' role as a labor relation agency for public employees, who are not State employees.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SB 114:

The definition of "Public Employee" is ammended to exclude deputy or assistant directors, or persons with similar levels of authority under coverage of PERA for collective bargaining. The intent of this legislation is to insure that State government remain able to function in the event of a strike of State Employees.

Sec. 2 of the bill is actually redundant in that the terms and conditions of employment, as it relates to collective bargaining, are already defined, and the new section: nor does it include retirement benefits, social security, except as otherwise specifically provided by law., only repeats the on going premiss.

Sec 3 Repeals the Commissioner of Public Works as the negotiator (collective bargaining) for the Division of Marine Transportation, replacing that function with the Division of Labor Relations under the Commissioner of Administration.

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

March 12, 1981

Honorable Bob Mulcahy
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: SB 60, 61, 62, 63, 114

As requested by your office. the following information is provided pertaining to the bills listed above.

SENATE BILL 60: If this bill becomes law, the State's contributions to PERS and TRS will more than triple. Those systems are the most lucrative in the nation. The necessity of further enhancing retirement benefits that are already the highest in the nation by placing a monetary burden on the State for distribution of public funds to a disproportionately small group of its population is highly questionable. It is suggested that the large benefits that our retirees now enjoy or our existing employees can look forward to are in actuality a form of hedge against inflation.

SENATE BILL 61: If this bill passes, the cost to the State in FY 82 will be $15.8 million, and it will cost our political subdivisions $13.5 million. We project this cost to increase by at least 10 percent for each year thereafter. We question the need to increase benefits that are already the highest in the nation and the disproportionate distribution of public funds.

SENATE BILL 62: The minimal increase in retirement benefits that a small number of employees will receive as a result of credit for unused medical leave is outweighed by the cost to implement and maintain such a program. Only 30 percent of PERS employees will actually retire; and of that number, a small percentage will actually take advantage of such a provision. In most cases, their actual increase in benefits would be minuscule. Cost aside, as a matter of public policy we object to any proposal to credit unused sick leave for retirement purposes. Such a provision will not realistically serve as an inducement to not take sick leave. It would serve to "reward" those employees who are already quite properly not using sick leave unless it is actually necessary. We do not believe it will resolve any problem that may now exist with unwarranted absences.

SENATE BILL 63: The stated purpose of the Public Employees' Retirement System per AS 39.35.010 is ". . . to encourage qualified personnel to enter and remain in the service of the State or a political subdivision or public organization of the State. . ." This bill would offer a means for employees to retire earlier than what is now allowed under the law, which certainly is contrary to the stated purpose of the system. Therefore, we are opposed.

SENATE BILL 114: This bill creates a level of management personnel within the merit system but outside collective bargaining. The result is to lessen the opportunity for conflicts of interest resulting from managers and subordinates belonging to the same bargaining unit. Another advantage is to remove the potential for strikes against the State by managers. The Department supports this bill.

I hope this provides the information you need. If you have further questions, please call me or Judy Crondahl at 465-2277.

Respectfully,

W. R. Hudson
Commissioner

WRH/mjc
cc: Judy Crondahl, Director
Division of Administrative Services

Paul B. Arnoldt, Director
Division of Retirement and Benefits

Sandra Withers, Director
Division of Labor Relations

solely according to the Uniform Arbitration Act (AS 09.43) if the Act is incorporated into the agreement or contract by reference. (§ 2 ch 113 SLA 1972)

Sec. 23.40.210. Agreement. Upon the completion of negotiations between an organization and a public employer, if a settlement is reached, the employer shall reduce it to writing in the form of an agreement. The agreement may include a term for which it will remain in effect not to exceed three years. The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the labor relations agency. (§ 2 ch 113 SLA 1972)

Sec. 23.40.215. Funding. The monetary terms of any agreement entered into under the Public Employment Relations Act are subject to funding through legislative appropriation. (§ 2 ch 113 SLA 1972)

Sec. 23.40.220. Labor or employee organization dues and employee benefits, deduction and authorization. Upon written authorization of a public employee within a bargaining unit, the public employer shall deduct from the payroll of the public employee the monthly amount of dues, fees and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative. (§ 2 ch 113 SLA 1972)

Sec. 23.40.230. Assistance by Department of Labor. When state employees are involved, the Department of Labor shall, if requested by the personnel board, and if there is no objection by the organization involved, assist the personnel board on matters such as, but not limited to, conducting elections and investigating unfair labor practices. (§ 2 ch 113 SLA 1972)

Sec. 23.40.240. Effect on certain units, representatives and agreements. Nothing in this chapter terminates or modifies a collective bargaining unit, recognition of exclusive bargaining representative, or collective bargaining agreement if the unit, recognition, or agreement is in effect on September 5, 1972. (§ 2 ch 113 SLA 1972)

Sec. 23.40.250. Definitions. In §§ 70—260 of this chapter, unless the context otherwise requires,

(1) "collective bargaining" means the performance of the mutual obligation of the public employer or his designated representatives and the representative of the employees to meet at reasonable times, including meetings in advance of the budget-making process and negotiate in good faith with respect to wages,

...ers and other terms and conditions of employment or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in §§ 70—260 of this chapter;

(3) "labor relations agency" means the state personnel board with regard to the state and employees of the state, and means the Department of Labor with regard to all other public employees and all other public employers;

(4) "organization" means a labor or employee organization of any kind in which employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment;

Section (5) "public employee" means any employee of a public employer, whether or not in the classified service of the public employer, except elected or appointed officials or teachers or noncertificated employees of school districts;

(6) "public employer" means the state or a political subdivision of the state, including without limitation, a town, city, borough, district, board of regents, public and quasi-public corporation, housing authority or other authority established by law, and a person designated by the public employer to act in its interest in dealing with public employees;

(7) "terms and conditions of employment" means the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees; but does not mean the general policies describing the function and purposes of a public employer. (§ 2 ch 113 SLA 1972)

Sec. 23.40.260. Short title. Sections 70—260 of this chapter may be cited as the Public Employment Relations Act. (§ 2 ch 113 SLA 1972)

Chapter 40. Labor Organizations.

Article
1. Local Organizations and Ferry System Employees (§§ 23.40.010—23.40.060)
2. Public Employment Relations Act (§§ 23.40.070—23.40.260)

Article 1. Local Organizations and Ferry System Employees.

Section
10. [Repealed]
20. Enforcement of certain contracts only if union registers
30. Definition of labor organization
40. Collective bargaining agreement
45—60. [Repealed]

Sec. 23.40.010. Union contracts with state and political subdivisions.

Repealed by § 5 ch 113 SLA 1972.

Editor's note.—The repealed section derived from § 1, ch. 108, SLA 1959; § 25, ch. 71, SLA 1972.

Section 4, ch. 113, SLA 1972, provides: "This Act is applicable to organized boroughs and political subdivisions of the state, home rule or otherwise, unless the legislative body of the political subdivision, by ordinance or resolution, rejects having its provisions apply."

Legislative committee reports. — For report on ch. 71, SLA 1972 (HCS SB 383 am H), see 1972 House Journal, p. 898.

Sec. 23.40.020. Enforcement of certain contracts only if union registers. No labor contract executed in this state by a labor organization which has no local in this state or which contracts not to be executed by one or more of its locals in this state may be enforced in the courts of this state unless the labor organization has registered with the department and complied with all regulations made by it. (§ 4 ch 108 SLA 1959)

Sec. 23.40.030. Definition of labor organization. For the purposes of this chapter "labor organization" includes an organization constituted wholly or partly to bargain collectively or deal with employers, including the state and its political subdivisions, concerning grievances, terms, or conditions of employment or other mutual aid or protection in connection with employees. (§ 1 ch 108 SLA 1959)

Sec. 23.40.040. Collective bargaining agreement. The commissioner of public works or his authorized representative, in accordance with §§ 10—30 of this chapter, may negotiate and enter into collective bargaining agreements concerning wages, hours, working conditions, and other employment benefits with the employees of the division of marine transportation engaged in operating the state ferry system as masters or members of the crews of vessels or their bargaining agent. No collective bargaining agreement is final without the concurrence of the commissioner of public works

commissioner of public works may make provision in the collective bargaining agreement for the settlement of labor disputes by arbitration. (§ 1 ch 93 SLA 1962)

Sec. 23.40.045. Records.

Repealed by § 55 ch 69 SLA 1970.

Revisor's note. — The repealed section was derived from § 1, ch. 231, SLA 1968.

Legislative committee report.—For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 3.

Constitutionality. — The statutes comprising the Local Autonomy Act, and regulations relating thereto, clearly indicate a state purpose which invades a field preempted by Congress. Impermissibly, the act interferes with the full freedom of employees to choose a bargaining agent and in the collective bargaining process. Because of conflict with federal law and policy, both actual and potential, the act, as amended, is therefore unconstitutional under the supremacy clause. Tyree v. Edwards, 287 F. Supp. 589 (D. Alas. 1968), aff'd sub nom. Alaska v. International Union of Operating Eng'rs, Local 302, 393 U.S. 405, 89 S. Ct. 684, 21 L. Ed. 2d 633 (1969).

The Local Autonomy Act operates in an area preempted by Congress and is therefore unconstitutional under the supremacy clause of the Constitution of the United States. Tyree v. Edwards, 287 F. Supp. 589 (D. Alas. 1968), aff'd sub nom. Alaska v. International Union of Operating Eng'rs, Local 302, 393 U.S. 405, 89 S. Ct. 684, 21 L. Ed. 2d 633 (1969).

Enforcement enjoined.—All officers, agents, or employees of the State of Alaska are permanently enjoined from enforcing AS 23.40.045—23.40.060, and the regulations promulgated thereunder, or from initiating or prosecuting any proceeding under purported authority of the same. Tyree v. Edwards, 287 F. Supp. 589 (D. Alas. 1968), aff'd sub nom. Alaska v. International Union of Operating Eng'rs, Local 302, 393 U.S. 405, 89 S. Ct. 684, 21 L. Ed. 2d 633 (1969).

Sec. 23.40.050. Local labor organizations.

Repealed by § 55 ch 69 SLA 1970.

Revisor's note.—The repealed section was derived from § 1, ch. 8, SLA 1967.

Sec. 23.40.052. Interference in chartering prohibited.

Repealed by § 55 ch 69 SLA 1970.

Revisor's note.—The repealed section was derived from § 2, ch. 231, SLA 1968.

Sec. 23.40.054. Civil enforcement.

Repealed by § 55 ch 69 SLA 1970.

Revisor's note.—The repealed section was derived from § 2, ch. 231, SLA 1968.

Sec. 23.40.056. Exemptions.

Repealed by § 55 ch 69 SLA 1970.

Revisor's note.—The repealed section was derived from § 2, ch. 231, SLA 1968.

Sec. 23.40.060. Penalties.

Repealed by § 55 ch 69 SLA 1970.

Revisor's note. — The repealed section was derived from § 1, ch. 8, SLA 1967, and § 3, ch. 231, SLA 1968.

Effect of amendment. — The 1973 amendment inserted "of §§ 20 — 40" near the beginning of the section.

Legislative committee report. — For report on ch. 53, SLA 1973 (CSHB 392), see House Journal, pp. 793, 885.

Sec. 23.40.040. Collective bargaining agreement.

This section was not repealed by implication by the enactment of the Public Employment Relations Act, AS 23.40.070, et seq. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Nor is it an exception to that act. — This section cannot be read as an implied exception to the Public Employment Relations Act, AS 23.40.070, et seq. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

The Public Employment Relations Act, AS 23.40.070 et seq., was intended to incorporate existing collective bargaining agreements rather than exempt them. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Construed in pari materia. — Since this section cannot be treated as an implied exception to the Public Employment Relations Act, AS 23.40.070 et seq., and since the Public Employment Relations Act did not repeal this section by implication, the statutes are construed in pari materia. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

This section and Public Employment Relations Act can be harmonized. — The Public Employment Relations Act, AS 23.40.070, et seq., and this section can be effectively harmonized to further the legislative purpose of establishing uniform procedures for public employee collective bargaining and to protect the policies the legislature thought important in enacting the Public Employment Relations Act. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Any possible conflict between this section and the Public Employment Relations Act is neither severe nor irreconcilable particularly in light of AS 23.40.240 which incorporates existing agreements. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

The most reasonable construction, consistent with the implied exception rule, is that the legislature was aware of this section and saw no inconsistency in enacting the Public Employment Relations Act, AS 23.40.070 et seq., to provide guidelines and procedures for public employee collective bargaining. The Public Employment Relations Act does nothing to undercut the authorization of collective bargaining under this section. Rather, it gives it additional content. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

This section was comprehensive when it was enacted. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

But it was further defined by the Public Employment Relations Act, AS 23.40.070, et seq. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

The Public Employment Relations Act, AS 23.40.070, et seq., contains far more detailed provisions than this section. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Public Employment Relations Act, AS 23.40.070 et seq., applies to employees of the state division of marine transportation. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

If there is no implied exemption for ferry personnel under the Public Employment Relations Act, AS 23.40.070, et seq., it cannot be said that the two acts do not cover the same people. This section is a subset of the broader Public Employment Relations Act coverage and was likely left intact deliberately to designate the commissioner of public works as the state's representative in bargaining with the ferry unions. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Article 2. P

Section

210. Agreement
212. Agreement with the Regents
225. Exemption from Public

Cross reference. — nonapplicability of this noncertificated employees educational attendance area AS 23.40.250

Right of public employe to bargain collectively wa this article. Alaska Pub. Em v. Municipality of Anchorage No. 1328 (File No. 3045), (1976).

This article confers employees the right to bargain collectively with the and requires public employer collective bargaining unit pursuant to this article. Nor Regional Educ. Attendance A Pub. Serv. Employees, Local Op. No. 1811 (File Nos. 336 P.2d 1292 (1979).

This article allows subdivisions of the state provisions for conduct relations and to substitut provisions. Alaska Pub. Em v. Municipality of Anchorage No. 1328 (File No. 3045), (1976).

Applicability of article is Under the present statute, a this article is the rule, e exception. State v. City of Pet Ct. Op. No. 1175 (File No. 23- 263 (1975).

This article is expre applicable to municipalities, and thus r are impliedly prohibited fro negotiate with organization employees unless the exe timely enacted. State Petersburg, Sup. Ct. Op. No. 2341), 538 P.2d 263 (1975).

Applying a liberal con the powers of local govern override the express de policy made a part of this coupled with considerations of the repeal of AS 23.40

SB
123

SUMMARY OF SB 123/HB 332

A. Effect of Bill.

SB 123/HB 332 exempts a refiner of aviation fuel from certain types of civil liability in connection with aviation accidents occurring in Alaska. The bill is designed to exempt a refiner from liability where the refiner no longer has control of the product being supplied. A refiner would continue to be liable for the quality of the fuel supplied where

1) Aviation fuel owned by the refiner was placed directly into an aircraft (for example, all large commercial carriers) or

2) the refiner intentionally or through gross negligence contributed to an accident.

B. Rationale for Bill.

It is well established that Alaska has a dispro- portionate number of small airplanes. It is equally well established that these same airplanes are involved in a dis- proportionate number of aviation accidents. Each such accident gives rise to a potential claim of contaminated fuel. Accord- ingly, companies marketing aviation fuel in Alaska are con- fronted with an enormous potential liability. The cost of this potential liability may not effectively be passed along to those purchasing aviation fuel in Alaska as the state's total volume is too low. Moreover, it is unfair to saddle

refiners with this liability as the vast majority of aviation fuel is marketed by independent airport dealers over which the refiner has no real control. Without this legislation, refiners may be forced to withdraw from the Alaska market (as one major refiner has recently done) or to adopt a "lower policy of making aviation fuel available only in 10,000 gallon quantities which must be purchased F.O.B. a company facility. That policy would have a substantial effect on all those who benefit from Alaska's present availability of aviation fuel.

Alaska Air Carriers Association

March 5, 1981

Mr. J. H. Howard
Marketing Manager
Chevron USA, Inc.
P.O. Box 1580
Anchorage, Alaska 99510

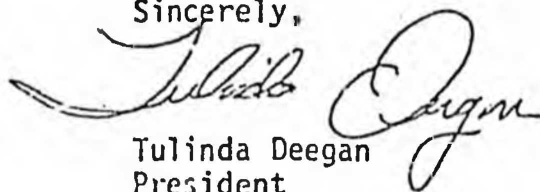
Dear Mr. Howard:

At the Annual Membership Meeting, February 28, 1981, the membership of the Alaska Air Carriers Association passed a resolution endorsing the concept of limiting the civil liability of aviation fuel refiners, pending further study of Senate Bill Number 123, by the Board of Directors of the AACA.

The AACA represents commercial air carriers in the state of Alaska. Members of AACA rely on aviation fuel refiners to supply sufficient fuel to serve the air transportation needs of Alaskans.

The AACA Board of Directors will be meeting in April to review the proposed legislation.

Sincerely,



Tulinda Deegan
President

TD:BC:kdc

4790 Business Park Boulevard • Suite 4 • Anchorage, Alaska 99503 • (907) 272-9933

parties temporarily without funds, subsection (b) of this section suggests that it is contemplated that such services typically are to be performed by a private agency. Granato v. Occhipinti, Sup. Ct. Op. No. 1962 (File No. 3756), 602 P.2d 442 (1979).

Performance of "other services" cannot be compelled. — There is no implied grant of power in subsection (a) or (c) of this section to compel the performance of "other services" by a state agency not wishing to perform them. Granato v. Occhipinti, Sup. Ct. Op. No. 1962 (File No. 3756), 602 P.2d 442 (1979).

The vague directive of this section that in a private custody dispute the court may order that "services be provided for the protection of the child" does not empower a court to command the aid of the department of health and social services in a private custody dispute. Granato v. Occhipinti, Sup. Ct. Op. No. 1962 (File No. 3756), 602 P.2d 442 (1979).

Distinctions between AS 47.10.020 and this section. — See Granato v. Occhipinti, Sup. Ct. Op. No. 1962 (File No. 3756), 602 P.2d 442 (1979).

Quoted in Chavre v. Chavre, Sup. Ct. Op. No. 1891 (File No. 3349), 598 P.2d 81 (1979).

Sec. 09.65.135. Limitations on claims arising from skiing. (a) A skier may not recover from a ski area operator for injury resulting from an inherent risk of skiing unless the injury occurred when the ski area operator was not providing the information required by (b) of this section.

(b) A ski area operator shall post trail signs at prominent locations within a ski area which shall include a list of the inherent risks of skiing and the limitation on liability of the ski area operator provided by this section.

(c) In this section

(1) "inherent risks of skiing" means the dangers or conditions which are an integral part of the sport of skiing, including, but not limited to,

(A) changing weather conditions;

(B) variations or steepness in terrain;

(C) snow or ice conditions;

(D) surface or subsurface conditions such as bare spots, forest growth, and rocks;

(E) collisions with lift towers, other structures, and their components unless the skier is on the lift;

(F) collisions with other skiers; and

(G) a skier's failure to ski within the limits of his own ability;

(2) "injury" means a personal injury or property damage or loss;

(3) "skier" means a person in a ski area engaged in the sport of skiing, sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob, or other device for recreation in snow;

(4) "ski area" means all ski slopes, trails and other places under the control of a ski area operator and administered as a single enterprise in the state;

(5) "ski area operator" means the operator of a ski area. (§ 2 ch 80 SLA 1980)

→SB 123: adds section 140. Here. "Civil Liability of an Aviation Fuel Refiner."

SB
151

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 151 by Bennett

Simple interest (one percent per month), to be paid by utility companies to consumers, on their utility deposits. Interest shall be paid in accordance with regulations adopted by the commission.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

UTILITY DEPOSITS

JUNEAU- Alaska Electric Light&Power

Type of Customer: Residential Service: $20 minimum
Mobile Home Service: $30 minimum
Temporary Service: $30 minimum
Small Commercial Service: $20 minimum
Large Commercial Service: $50 minimum
Manufacturers Service: $500 minimum
Processors Service $500 minimum
Street Light in Yard $20 minimum

Persons with a history of poor credit may be charged 2 months projected electric bill, however this has never been required.
After 2 years of established good credit with the utility, deposits are refunded.
Total deposits (Nov. 80) held by AEL&P $78, 655.00

Ketchikan- Ketchikan Public Utilities: Presently paying 6% per annum.

Type of Customers: Residential Service $50 (minimum)
Business Service $100 (minimum)

Business customers are evaluated to determine if a one month projected service should be required; (maximum)
Credit Service evaluates residential consumers, and when necessary requires a one month projected use as the deposit.
Deposits are refunded after one year of satisfactory service.
Total deposits held by Ketchikan Public Utilities- $80,000

FAIRBANKS- Postion paper outlining Golden Valley Electric Assoc. enclosed in individual committee members files.

Anchorage - Anchorage Municipal Light and Power:
Type of Customer: More information coming;
Total Electric deposits $29,000

Alaska State Legislature
Senate

JUNEAU, ALASKA

ANCHORAGE: Anchorage Municipal Light&Power

Type of Customer: Residential $20 new customer; no deposit customers with good utility credit rating. Customers with poor credit history, 2 months projected service bill.

Commercial Service: $50 without established usage; In the case of a new business with previously established owners, 2 months service calculated by averaging the prior 12 months service charges, will be assesed as the deposit.

Anchorage Water Utility:

Residential: $20

Commercial: $50

Anchorage Telephone and Tolls

Residential: $50 (minimum)

Commercial: 2 months flat rate plus 2 months projected toll rate required as deposit.

All deposits are kept by the Utilities for 24 months, and at that time when customers demonstrate good credit, they are given a refund. No interest is paid on utility deposits.

KODIAK- Kodiak Electric: Presently pays no interest on deposits.

Type of Customers: Residential: $50 minimum

Small Commercial: $100 minimum

Large Commercial: $1,500 for consumers using over 50,000 KVA

Maximum deposit required for persons with a poor credit history is two months projected service. Refunds are given after 2 years of demonstrated reliability. Total deposits held by Kodiak Electric as of Dec 1980- $72,500.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

SUPPLEMENT TO REGULATION Q †

As amended effective January 15, 1981

SECTION 217.7—MAXIMUM RATES OF INTEREST PAYABLE BY MEMBER BANKS ON TIME AND SAVINGS DEPOSITS

Pursuant to the provisions of Section 19 of the Federal Reserve Act and § 217.3 of this Part, the Board of Governors of the Federal Reserve System hereby prescribe[s the] following maximum rates[1] of interest per ann[um pa]yable by member banks of the Federal Reserve [S]ystem on time and savings deposits:

(a) **Time deposits of $100,000 or more.** There is no maximum rate of interest presently prescribed on any time deposit of $100,000 or more.

(b) **Fixed ceiling time deposits of less than $100,000.** Except as provided in paragraphs (a), (d), (e), (f), and (g), no member bank shall pay interest on any time deposit at a rate in excess of the applicable rate under the following schedule:

Maturity	*Maximum per cent*
14 days or more but less than 90 days	5¼
90 days or more but less than 1 year	5¾
1 year or more but less than 2½ years	6
2½ years or more but less than 4 years	6½
4 years or more but less than 6 years	7¼
6 years or more but less than 8 years	7½
8 years or more	7¾

(c) **Saving deposits.** No member bank shall pay interest at a rate in excess of 5¼ per cent on any savings deposit. No member bank shall pay interest at a rate in excess of 5¼ per cent on any savings deposit that is subject to negotiable orders of withdrawal, the issuance of which is authorized by Federal law.

(d) **Governmental unit time deposits of less than $100,000.** Except as provided in paragraphs (a), (f), and (g), no member bank shall pay interest on any time deposit which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, the United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof, at a rate in excess of 8 per cent.[2]

(e) **Individual Retirement Account and Keogh (H.R. 10) Plan deposits of less than $100,000.** Except as provided in paragraphs (a) and (g), a member bank may pay interest on any time deposit with a maturity of three years or more that consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) §§ 408, 401, at a rate not in excess of 8 per cent.[2]

(f) **26-week money market time deposits of less than $100,000.** Except as provided in paragraphs (a), (b) and (d), a member bank may pay interest on any nonnegotiable time deposit of $10,000 or more, with a maturity of 26 weeks at a rate not to exceed the rates set forth below:

Rate established (auction average on a discount basis) for U.S. Treasury bills with maturities of 26 weeks issued on or immediately prior to the date of deposit ("Bill Rate")	*Maximum Per Cent*
7.50 per cent or below	7.75
Above 7.50 per cent	Bill Rate plus one-quarter of one per cent

[1] The limitation on rates of interest payable by member banks of the Federal Reserve System on time and savings deposits, as prescribed herein, are not applicable to any deposit which is payable only at an office of a member bank located outside the States of the United States and the District of Columbia.

[2] The ceiling rate on this category is the highest fixed ceiling rate that may be paid on time deposits under $100,000 by any Federally insured commercial bank, mutual savings bank, or savings and loan association.

† Destroy any previous Supplements.

Rounding rates to the next higher rate is not permitted and interest may not be compounded during the term of this deposit. A member bank may offer this category of time deposit to all depositors. However, a member bank may pay interest on any nonnegotiable time deposit of $10,000 or more with a maturity of 26 weeks which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by:

(1) the United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or

(2) an individual pursuant to an Individual Retirement Account agreement or Keogh (H. R. 10) Plan established pursuant to 26 U.S.C. (IRC 1954) §§ 408, 401,

at a rate not to exceed the ceiling rate payable on the same category of deposit by any Federally insured savings and loan association or mutual savings bank.[3]

(g) Time deposits of less than $100,000 with maturities of 2½ years or more. Except as provided in paragraphs (a), (b), (d) and (e), a member bank may pay interest on any nonnegotiable time deposit with a maturity of 2½ years or more that is issued on or after Thursday of every other week at a rate not to exceed the higher of one-quarter of one per cent below the average 2½ year yield for United States Treasury securities as determined and announced by the United States Department of the Treasury immediately prior to such Thursday, or 9.25 per cent. The average 2½ year yield will be rounded by the United States Department of the Treasury to the nearest 5 basis points. Except as provided below, in no event shall the rate of interest paid exceed 11.75 per cent. A member bank may offer this category of time deposit to all depositors. However, a member bank may pay interest on any nonnegotiable time deposit with a maturity of 2½ years or more which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by:

(1) the United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or

(2) an individual pursuant to an Individual Retirement Account agreement or Keogh (H. R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) §§ 408, 401,

at a rate not to exceed the ceiling rate payable on the same category of deposit by any Federally insured savings and loan association or mutual savings bank.[4]

(h) Obligations of the parent bank holding company of a member bank. Notwithstanding the above, interest may be paid on a deposit as defined in § 217.1(h) of this Part at a rate not to exceed the following schedule:

Original Maturity or Redemption Period	*Maximum Per Cent*
2½ to 4 years	For an obligation that is not redeemable prior to maturity, interest may be paid at the rate established for 2½ year variable ceiling time deposits pursuant to the provisions of § 217.7(g) in effect at the time the obligation is issued. For an obligation that is redeemable prior to maturity, the maximum rate of interest that may be paid from the date of issuance until the first date on which the obligation may be redeemed shall not exceed the rate established for 2½ year variable ceiling time deposits pursuant to the provisions of § 217.7(g) in effect at the time the obligation is issued. For a successive period thereafter, interest may be paid during such period until the next date on which the obligation may be redeemed at a rate not to exceed the rate that would be in effect on the first day of such period for 2½ year variable ceiling time deposits established pursuant to the provisions of § 217.7(g) in effect at the time the obligation was issued.

[3] The ceiling rate of interest payable for this category of deposit by Federally insured savings and loan associations and mutual savings banks is 7.75 per cent when the Bill Rate is 7.25 per cent or lower, one-half of one per cent above the Bill Rate when the Bill Rate is above 7.25 per cent but below 8.50 per cent, 9.00 per cent when the Bill Rate is 8.50 per cent or above but below 8.75 per cent, and one-quarter of one per cent above the Bill Rate when the Bill Rate is 8.75 per cent or above.

[4] The ceiling rate of interest payable for this category of deposit by Federally insured savings and loan associations and mutual savings banks is one-quarter of one per cent above the rate that may be paid by member banks.

26 weeks or more but less than 2½ years ($10,000 minimum denomination required)	For an obligation that is not redeemable prior to maturity, interest may be paid at the rate established for 26-week money market time deposits pursuant to the provisions of § 217.7(f) in effect at the time the obligation is issued. For an obligation that is redeemable prior to maturity, the maximum rate of interest that may be paid from the date of issuance until the first date on which the obligation may be redeemed shall not exceed the rate established for 26-week money market time deposits pursuant to the provisions of § 217.7(f) in effect at the time the obligation is issued. For a successive period thereafter interest may be paid during such period until the next date on which the obligation may be redeemed at a rate not to exceed the rate that would be in effect on the first day of such period for 26-week money market time deposits established pursuant to the provisions of § 217.7(f) in effect at the time the obligation was issued.
14 days or more but less than 2½ years (No minimum denomination required)	Interest may be paid at the ceilings established pursuant to the provisions of § 217.7(b) in effect at the time the obligation is issued.
less than 14 days	No interest may be paid.

The Golden Heart City

OFFICE OF THE MAYOR

February 12, 1981

Seantor Don Bennett
Alaska State Senate
Pouch V - State Capitol
Juneau, AK 99811

Dear Don:

This is in reference to the Senate Bill requiring interest be provided on utility deposits. We now pay 8% locally. Without doing any research as to what other utilities are doing, I would prefer local option. However, I agree hat interest should be paid.

I will be sending you some information on an engineering research facility for the University of Alaska in a few days.

Thank you for your efforts.

Sincerely,

Ruth E. Burnett
Mayor, City of Fairbanks

REB/mdw

410 CUSHMAN, FAIRBANKS, ALASKA 99701

SENATOR
DON BENNETT
P.O. BOX 2801
FAIRBANKS, ALASKA 99707

Senate

LEGISLATIVE ADDRESS
POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99811

card

February 16, 1981

Duane A. White
Div. Customer Service Manager
P.O. Box 2008
Juneau, Alaska 99803

Dear Mr White;

Thank you for your letter regarding my Senate Bill 151 which I have introduced into the Senate recently. I appreciate your comments.

While I can appreciate the need for a utility to protect itself from potential deadbeats, I think it is equally important that people are entitled to a fair rate of return on their captured funds. In that short term time deposits are currently paying 14% to 15% interest, I see no reason why public charted monopolies should not be required to pay 12%, as the monies which they hold is their insurance against loss. I think the citizen is also entitled to insure against their loss of earning power.

Rest assured that there are several other bills which I will introduce in the future which will, hopefully, insure that utility monopolies are both fair and equitable to the areas they serve.

Thank you again for your views and the information you copied me with.

Best Regards,

Don Bennett

Senator Don Bennett

cc Commissioner Zerbetz

Juneau & Douglas Telephone Company
A Member of Continental Telephone System

2093 Jordan Avenue / P.O. Box 2008
Juneau, Alaska 99803
(907) 789-0280

FEB 10 1981

January 27, 1981

Senator Don Bennett
P. O. Box 2801
Fairbanks, Alaska 99707

Dear Senator Bennett:

Thank you for soliciting our thoughts on your proposed bill which would require interest to be paid on customer utility deposits. The following are those thoughts.

At Juneau and Douglas Telephone Company we require deposits only when a customer is a known credit risk or when he or she cannot prove any sort of established credit history. We try to use good judgement when requiring deposits as we do not desire to offend our customers, nor do we particularly enjoy the administrative effort associated with handling deposits. In all cases, deposits are refunded when the customer has demonstrated reliability.

The idea of requiring the utility to pay interest on deposits is common and in most States it is required. However, it seems to me that it has more political than economic value.

Consider: deposits are used to minimize write-offs of uncollectible bills because such write-offs, being a legitimate business expense, are passed on to all customers as a portion of the monthly rate. Therefore, deposits are used to protect the paying customers from those who fail to pay. Interest paid on deposits is also a legitimate business expense and is passed on to all customers as a portion of the monthly charge. Therefore, the reliable customer ends up paying more for his/her service so that we can pay interest to the high-risk customer. This has never made any sense to me.

Thank you again for your inquiry. For your information I have enclosed a copy of that section of our tariff which covers establishment of credit and deposits.

Sincerely,

Duane A. White
Div. Customer Service Mgr.

DAW:sd

Enclosure

MAR 8 1977

State of Alaska
Public Utilities Commission

RULE NO. 5

DEPOSITS (continued)

A4 Return of deposits (L)

B1 The utility will refund the deposit in accordance with the following

C1 When an application for telephone service has been cancelled prior to the establishment of service, the deposit will be applied to any charges applicable in accordance with the tariff schedules and the excess portion of the deposit will be returned, and the applicant will be so advised.

C2 When the customer's credit may be otherwise established in accordance with Rule No. 4 and upon the customer's request for return of the deposit.

C3 Upon discontinuance of telephone service, the utility will refund within 60 days the customer's deposit or the balance in excess of unpaid bills for that service, and the customer will be so advised.

C4 After the customer has paid bills for telephone service for 12 consecutive months without having had this service temporarily or permanently discontinued for nonpayment of bills, or the customer has not been delinquent in payment more than once in any 12 consecutive months, the utility will refund the deposit. (L)

(L) Material formerly shown in revised form on First Revised Sheet No. 27 of this schedule.

RULE NO. 5

DEPOSITS

A1 Amount of deposit to establish credit

B1 The amount of deposit required to establish credit for telephone service shall not exceed the amount of the estimated bill for toll and exchange service during two normal billing periods, to be calculated by the utility after consultation with the customer. Whenever a deposit is taken, service connection charges and an advance payment will be collected at the time of application.

A2 Amount of deposit to reestablish credit

B1 The amount of deposit required to reestablish credit shall be equal to twice the average monthly bill for toll and exchange service for the last three months, when available.

A3 Additional deposit (N) (L)

B1 An additional deposit may be requested if the actual billings exceed the original estimates and if the customer has a poor credit standing with the utility due to delinquencies in payments of utility bills. (N)

(L)

(L) Material omitted now shown on Second Revised Sheet No. 28 of this schedule.

(continued)

JUNEAU AND DOUGLAS TELEPHONE COMPANY

RULE NO. 4

ESTABLISHMENT AND RE-ESTABLISHMENT OF CREDIT (continued)

A2 Reestablishment of credit (continued)

B2 An applicant who previously has been a customer of the utility and during the last twelve months of the prior service has had service temporarily or permanently discontinued for nonpayment of bills will be required to pay any unpaid balance due the utility, and will be required to reestablish credit by making the deposit prescribed in Rule No. 5 before the utility will be obligated to provide service. (C)

Material omitted now shown in different form on First Revised APUC Sheet No. 25 or withdrawn in its entirety.

Advice Letter No. 27 Effective March 20, 1974

Issued By JUNEAU AND DOUGLAS TELEPHONE COMPANY

By C. N. Morris Title PRESIDENT

RULE NO. 4

ESTABLISHMENT AND RE-ESTABLISHMENT OF CREDIT

A1 Establishment of credit

Each applicant for telephone service will be required to establish credit, which will be deemed established upon qualifying under any one of the following: (C)

B1 Applicant has been a customer of the utility or any other telephone utility in the State of Alaska in the last two years and during the last twelve consecutive months that service was provided has paid all bills for such service, without having been temporarily or permanently discontinued for nonpayment thereof.

B2 Applicant is the owner of the premises upon which the utility is requested to furnish service, or is the owner of other local real estate; in the case of business service; real estate must be business property.

B3 Applicant furnishes a guarantor satisfactory to the utility to secure payment of bills of applicant for telephone service requested in the application.

B4 Applicant's credit is otherwise established to the satisfaction of the utility. (C)

B5 Applicant makes the deposit prescribed in Rule No. 5. (T)

A2 Reestablishment of credit (L)

B1 A customer whose service has been discontinued for nonpayment of bills will be required to pay any unpaid balance due the utility for the premises for which service is to be restored and may be required to pay a reconnection charge as prescribed in Rule No. 9 under "Restoration - Reconnection Charge" and to reestablish credit by making the deposit prescribed in Rule No. 5, before service is restored. (L)

(L) Material formerly appeared on Original APUC Sheet No. 26 in different form.

(continued)

Customer Security Deposits

GVEA's present minimum deposit schedule is $50 for an owner, $70 for a renter, and $100 for a total electric.

Present APUC regulations call for return of security deposits within 24 months, unless there is documented credit infractions, or interest must be paid on the deposited amount. This was set by the APUC to allow the utilities protection against potential bad debt losses from new customers until satisfactory credit history has been established.

One must keep in mind that electric utilities are in a somewhat unique and precarious position in the business world as they are required to provide electric service to all comers (including known high risks) on a credit basis.

One hundred percent of the utilities business is on a credit basis, with each customer provided energy on credit for at least a 60-day span before service can be terminated for non-payment. The only protection afforded the utility is the security deposit.

GVEA has had an A-1 Credit policy in effect for over ten years that functions as follows:

1. Each account is reviewed on an annual basis (in March-April).
2. All accounts that have been active for the past twelve months and have no more than one monthly payment infraction are classified A-1 Credit and their security deposit returned.
3. GVEA returned 1465 deposits totaling $58,750.00 in May 1980.

We feel that in this way only the consumer who has not established an acceptable credit record is required to continually post a security deposit; the good-pay customer is relieved of the deposit requirement.

A program which would require the accrual and payment of interest on utility security deposits would impose accounting costs to administer such a program that would more than likely exceed the interest paid, i.e., interest @ 8% on a $50 deposit would only be $4 annually.

Also, such a program would require GVEA, in the majority of cases, to pay interest to those customers who have a history of bad payment and over extension of credit; this would be at the expense of the A-1 Credit customers.

GVEA has never had a past-due-penalty assessment policy on overdue billings chiefly because of a high ratio of administrative cost to revenue received by such a policy. If GVEA is required to implement interest payment on deposits, the costs of this would have to be covered by additional revenue generated elsewhere. The most likely and justifiable avenue would be a past-due penalty assessment on delinquent accounts.

Our objection is that both the interest and past due penalty policies are very heavily laden with costs of administration that the consumer would come out considerably on the short end of the stick.

It is GVEA's position that the most economical and fairest method is to require new consumers to put security deposits up front until each has demonstrated a pattern of credit integrity.

STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Commerce & Economic Development	Bennett	SB 151

Department Position

Division Director	Date	Commissioner	Date
		Carolyn S. Guess	2/23/81

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted	By	Date

SUMMARY

1. a) Related Bills (Similar or Conflicting	1. b) Other Agencies Affected by Bill

2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

4. Fiscal Impact: ☐ None ☐ Fiscal Note Attached

5. Amendments Proposed:

6. Comments: There is no consensus of the Commission regarding its position on this legislation which involves the controversial issue of requiring utilities to pay interest on deposits. There is agreement, however, that through the promulgation of regulations, the Commission has the authority to effect the intent of the proposed legislation. Because it has not been persuaded or requested to promulgate such regulations, this has not been done to date.

The Commission is in agreement that if utilities are required to pay interest on deposits, the rate of interest should be set by the Commission and adjusted annually, if necessary. This is the practice in a number of states and provides for consideration of changing economic conditions.

In support of this legislation, it is argued the Alaska Municipal Code requires municipal utilities to pay interest on customer deposits (AS 29.48.060); thus AS 42.05 should be made consistent as a matter of policy. In addition, some utilities regulated by the Commission do

01.009 (Rev. 9/80)

(OVER)

(Cont'd) pay interest on deposits. As monthly utility bills increase, especially ~~the~~ for electric energy, the deposit required may become very sizeable, potential several hundred dollars. For those more sophisticated utilities employing computerized billing, the expenses associated with interest computation and record keeping are minimal. The administrative cost to the utilities will vary, however, depending on the number of consumers, the location and sophistication of the utility's operation.

In opposition to this legislation, interest paid on deposits is recovered through the ratemaking process and, therefore, ultimately borne by all consumers.

Under the Commission's regulations (3 AAC 48.420) as a condition of receiving service, a utility may require a deposit equal to the estimate of two monthly billings. The utility may not retain that deposit for more than two years providing that in the interim period the utility has not been forced to disconnect the consumer's service for reasons of delinquency and that there has been no more than one delinquent payment in any 12 consecutive months. The proposed legislation could require a utility to pay interest on rather large deposits if the customer has a track record of delinquent payments, therefore requiring responsible utility customers to bear the interest expense of those customers who have been financially irresponsible. It is also argued that the purpose of a deposit is to guarantee to the utility that customer's bill will be paid and does not presume that utilities are in the banking business.

If the Legislature believes an alternative to the proposed legislation is desirable, the Commission through proposed regulations can receive evidence and comments regarding whether payment of interest on deposits should be mandated for all utilities economically regulated by the Commission.

tion to keep its poles, tracks, pipes, or other equipment in a safe and proper condition, it has no right to impose a tax for revenue purposes except such as it is expressly authorized to levy and collect by the legislative power creating it. Town of Seward v. Seward Water & Power Co., 5 Alaska 52 (1914).

Am. Jur., ALR and C.J.S. references.—37 Am. Jur., Municipal Corporations, § 46 et seq.

Motive of council passing ordinance as to franchise as affecting validity thereof, 32 ALR 1525.

Forfeiture of street railway franchise for breach of condition, 34 ALR 1420.

64 C.J.S. Municipal Corporations § 1726.

Sec. 29.48.060. Public utilities rates. The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to the municipality or its inhabitants by a public service association, corporation, or individual not regulated under AS. 42.05 and may regulate and provide what is a reasonable deposit for meters and security for service to be given, provided that interest be paid on the deposit. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return on invested capital. (§ 2 ch 118 SLA 1972)

This section was intended to refer, not only to franchises thereafter to be granted, but to franchises then in existence. Alaska Elec. Light & Power Co. v. City of Juneau, 294 F. 864 (9th Cir.), cert. denied, 266 U.S. 601, 45 S. Ct. 90, 69 L. Ed. 462 (1924); Town of Cordova v. Alaska Pub. Util., 9 Alaska 196 (1937).

City may not contract away power to fix rates of utilities.—A city may not contract away its power to fix, and from time to time change, the rates to be charged by private organizations engaged in furnishing public services. Such action is prohibited by this section and by AS 29.10.147 and 29.10.150 (now 29.48.070 and 29.48.080). Femmer v. City of Juneau, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

But may contract as to rates for its own services.—This section and AS 29.10.147 and 29.10.150 (now 29.48.070 and 29.48.080) have no effect upon the power of a city to fix contractually the rates to be charged a user of a municipally owned public utility. Femmer v. City of Juneau, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

Rates may not be irrevocably fixed. —There is not necessarily included in the power of a municipality to provide lights for a city, the power to enter into a binding contract whereby the rates to be charged by a public utility corporation shall be irrevocably fixed. Alaska Elec. Light & Power Co. v. City of Juneau, 294 F. 864, (9th Cir.), cert. denied, 266 U.S. 601, 45 S. Ct. 90, 69 L. Ed. 462 (1924).

All the operator of a public utility is entitled to is a reasonable return on his net capital investment, represented by property actually used and useful in the public service, and then only provided that his operation is efficient and economical. Pichotta v. City of Skagway, 12 Alaska 42, 78 F. Supp. 999 (D. Alas. 1948).

But rates fixed too low are confiscation of property. — Where the rates prescribed are not sufficient to meet operating expenses, there is not merely an incidental diminution in the value of plaintiff's property, such as would be unavoidable upon any exertion of the police power to fix rates which diminished income, but a confiscation in the constitutional sense, and the enforcement of the ordinance should be enjoined, without prejudice, however, to the right of the city to take such further proceedings as it may deem necessary in connection with the amendment of its ordinance.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MINUTES: 2 March 1981

Senator Mulcahy opened the Committee meeting and called for testimony on CSSB 50. Testimony was provided by Art Zillig from the Department of Labor, and he explained that a further review of the proposed bill indicated that two changes were necessary. On page 4, delete the word "regular" (line21), and on page 5, line 12, include (a) after the statute. The bill was then passed from committee.

The next bill addressed was SB 151, which included discussions by Sen. Rodey (pertaining to the cost of figuring interest), Sen Ziegler about the philosophical issue of the Legislature even addressing required interest to be paid by public utilities, and Sen. Hohman questioning the purpose of having this legislation. SB 151 will be discussed at a later committee meeting.

SB 166 was the final bill to be discussed. Sen. Mulcahy gave a summary of the bill, explaining that the community of Bettles had been inadvertantly excluded from the benefit of power production cost assistance and hence a language change was necessary to include them within the original intent of the legislation. The bill was moved without further objections.