

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 8672

2595 HLC SB 67 - SB 182

According to Bob Leshner, auditor for the Alaska Department of Transportation and Public Facilities, the State currently reimburses utilities according to the federal guidelines established for federally funded highway projects; almost all of the Department's highway projects receive some federal funding. Under federal guidelines, depreciation of equipment is not taken into account unless the utility is forced to move at least one mile of their facilities as a result of the project. When this is the case, there are explicit formulas established by the federal government to calculate the depreciation. As a result, Mr. Leshner stated, State law is rarely applied to State reimbursement policies.

Mr. Leshner noted that the State has experienced no difficulties using the federal requirements for reductions in payments for service life extension. He stated that the most frequent area of disagreement between the State and utilities is the determination of what constitutes legitimate overhead charges for the relocation of utility facilities.

Cost to Municipalities. Several sources, including Lee Sharp, Juneau City Attorney, stated that under common law, utilities are generally held responsible for the cost of relocation in absence of any agreement to the contrary. The courts have found that right-of-ways primarily serve transportation needs, and the utility rights are therefore subservient to the transportation function of the right-of-way.

There are a variety of municipal policies in Alaska concerning reimbursement for the cost of utility relocation. A number of municipalities, including the Fairbanks North Star Borough, and the City of Fairbanks, are currently paying for the cost of relocating utility facilities. According to Pat Lancaster, Right-of-way Agent for the Matanuska-Susitna Borough, the borough recently adopted a new policy of paying for utility relocation, although no reimbursements have been paid yet. According to Lee Sharp, the City and Borough of Juneau decides whether or not to pay the cost of utility relocation on an individual basis. In some communities, some or all of the utilities are municipally owned. Municipalities which are currently paying for utility relocation or own their own utilities should not be greatly affected by the legislation.

However, many municipalities do not now pay for the cost of relocating utility facilities. The City of Kenai currently requires utilities to pay for the relocation of facilities in municipal right-of-ways, as does the Municipality of Anchorage and the City of Palmer. According to Lloyd Hodson, General Manager of Alaska Village Electric Co-Op, his utility generally must pay for utility relocation in the 48 communities in western Alaska it serves. Although very little relocation has occurred in the past, he noted that road expansion in these communities has been increasing over the last few years.

We were unable to identify the exact percentage of municipalities that do not currently pay for relocating utility facilities. Both Dave Hutchins, with the Alaska Rural Electric Co-Op Association, and Gordon Parker, of the Alaska Telephone Association, stated that most municipalities in Alaska currently pay the utility relocation costs associated with their road projects. However, they both noted that a significant number of municipalities do not.

We are unable to determine the cost to the municipalities should this proposed legislation be enacted. Several municipal officials and utility representatives explained that relocation costs vary greatly according to the types of facilities to be relocated, the initial placement of the facilities, and the location of the project.

However, it is possible to state that those municipalities that are not currently reimbursing utilities may be faced with significant increases in the cost of road projects if this legislation is adopted. Pat Lancaster, Right-of-way Agent for the Matanuska-Susitna Borough, stated that the Mat-Su Borough uses a rough estimate of \$25,000 per mile for utility relocation costs, although he emphasized that the actual cost varies tremendously among projects. Dave Soulak, City Manager for Palmer, estimates that paying for utility relocation will increase Palmer's road project costs between 5 and 15 percent.

One impact of the bill on municipalities might be to restrict the use of local improvement districts¹ by municipalities to fund road improvements. The City of Kenai, for example, currently restricts the assessments on property owners in a district to 25 percent of the value of the property and the improvement. According to Tim Rogers, City Attorney for Kenai, the ability of local improvement districts to finance projects could be reduced if utility relocation costs are added to the cost of the project. Mr. Rogers stated that in some cases, local improvement districts would be unable to finance projects at all; in some other instance, projects might have to be scaled down.

Dave Soulak, Palmer's City Manager, stated that some street improvement projects in Palmer might become cost prohibitive if local assessment districts were required to pay for utility relocation. Pat Lancaster also noted that the bill would place hardships on local improvement districts, although he felt that it was appropriate to include utility relocation in road project costs. However, local improvement districts are used to finance road projects in at least one municipality which

¹ Local improvement district refers to any district or service area used to finance improvements through assessments against all of the property owners in the district.

Representative Lacher

April 28, 1983

Page Six

pays for utility relocation. According to Dennis Holtry in the Fairbanks North Star Borough Engineering Department, local improvement districts in that borough pay for utility relocation resulting from their road improvements.

According to Peter Sokolov, with APUC, shifting the cost of relocating utility facilities to municipalities is not likely to result in a reduction of utility rates. However, he did state that future utility rate increases might be lower, as the APUC would expect any reduction in operating costs to be incorporated into future rate proposals.

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If you have any questions, or if we can be of further assistance to you, please do not hesitate to contact us.

JK

**Municipality
of
Anchorage**



Document #E
POUCH 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 263-8160

TONY KNOWLES,
MAYOR

DEPARTMENT OF PUBLIC WORKS
(3500 East Tudor Road)

April 11, 1983

Alaska Municipal League
204 North Franklin
Juneau, Alaska 99801

Dear Sir:

Re: UTILITY RELOCATION COSTS, HB244, CSSB67

I advised in an earlier telephone conversation with the Alaska Municipal League staff that the Municipality of Anchorage was considering revising our Title 24 in regard to reimbursement to utilities for relocation due to road construction. That revision has not been finalized as of this time, however, you may find the enclosed results of our recent telephone survey of interest. It appears that HB244 and CSSB67 are establishing new precedence for expenditure that other cities in the U.S.A. would not consider. In fact most officials insist the right-of-ways are first for traffic and public use and use by utilities is a privilege which many are required to pay for through their franchise agreements.

The telephone survey was conducted in an effort to confirm the direction we should take, especially concerning private utilities. Essentially all cities surveyed require the utilities to pay for their own relocation. This included cable TV. For the State to mandate paying relocation costs for a utility establishes a significant precedent which has not been required of local governments in other states.

The Municipality is not in favor of the proposed legislation. It is an unreasonable assumption of local authority. The local government should have the right to legislate the conditions upon which they will make reimbursement for relocation and how they will control use of their right-of-ways. Equally important, since some utility relocations are quite costly, requiring the local government to pay for those relocations will have a serious impact on the amount of monies available for upgrading or construction of new roads.

Alaska Municipal League
April 11, 1983
Page 2

In some cases allowing the utilities to utilize the right-of-way for free and then paying for their relocation will preclude a local government from being able to finance constructing or upgrading the street.

Sincerely,



Everett P. Diener
Director of Public Works

EPD/clg
aw4/epd45

cc: Patrick Anderson

TELEPHONE SURVEY METHODOLOGY

Thirteen cities throughout the United States were contacted by telephone last week. These cities were chosen at random with an emphasis on West Coast cities which are somewhat similar in size to Anchorage. In each case the Director of Public Works or the City Engineer was asked four specific questions relating to how utility costs are handled with respect to locally funded street improvement projects and relating to how cable television relocation costs are handled.

SUMMARY OF FINDINGS

In every case the costs associated with relocating utilities as a result of a locally funded street improvement project are borne by the utility companies. In three cases, (Tacoma, Washington; San Diego, California; and Denver, Colorado) an exception is made with respect to public utilities owned by the local government. These cases are discussed below.

In every City contacted, the local government has a franchise with the utility companies whereby the City takes a percentage of their gross revenues, on an annual basis, for the utility's use of the public right-of-way. Although undergrounding of utilities was not one of the questions asked, in one case (San Diego) it was learned that the San Diego Gas & Electric Company franchise recently came up for renegotiation and the annual percentage of gross income was increased to help fund their undergrounding program. This new program was discussed as a "model" for the United States. In the case of San Diego Gas & Electric Company, \$4 million per year is collected from them and used in San Diego's undergrounding program.

CITY BY CITY RESULTS

Seattle, Washington: By ordinance, the utility companies pay all costs of relocation in every case unless the relocation is temporary because of the city's direction or error.

Portland, Oregon: Private utilities pay all costs associated with relocations. City owned utilities also pay relocation costs except if a street was changed after an improved location had been given. In such cases the costs are part of the project and they are assessed. All utilities exist in the right-of-way under a franchise, and the franchise with the cable television company specifically requires that this company pay all its relocation costs.

Spokane, Washington: Gas, telephone and electric are all private utilities and they pay for any relocation costs in a street improvement project. The same is true for city owned utilities, water and sewer only, except where Public Works establishes a

grade for the streets and if there is a change in grade, then Public Works bears the cost unless the relocation work was done without a grade or the city-owned utility disregarded the street grade. Spokane's cable television company has a pole agreement with the private owner of the pole and not with the City.

Tacoma, Washington: Private utilities, including gas, telephone and cable television pay all costs of relocation. Public utilities, which are another part of the local government, receive reimbursement for materials only, plus an overhead charge. If the street improvements are locally funded, this charge is usually 15 percent; if federally funded, normally the charge is limited to 10 percent. If the public utilities are being relocated from a recently assigned location, the project pays the relocation costs. Public utilities do not include those coming into Tacoma from the county subsequent to the passage of their local ordinance.

San Diego, California: In San Diego the city owns the water and sewer utilities and in the case of relocations, the city pays such costs. In every other case the individual utility companies pay the cost of relocation. The city has a franchise with each company whereby the city collects an annual percentage of their gross receipts. There are utility coordinating committees which meet monthly to work out utility conflicts before they actually occur. This City has just started an extensive undergrounding program which is paid for through the franchise agreements with the utility companies.

Minneapolis, Minnesota: All utility companies pay their own relocation costs including the water and sewer utility which is owned by the city of Minneapolis. However, once a utility is relocated, it cannot be asked to relocate again for another ten years. Otherwise, the city pays for the relocation costs. The City has franchise agreements with each of its utilities. Cable television is going in now in the Minneapolis area, and they will be paying any relocation costs pursuant to their franchise.

Boise, Idaho: Except for federal aid projects, local utilities relocate at their own expense. This is considered to be a cost of doing business.

Tucson, Arizona: All utilities are considered to be secondary users of the right-of-way. A utility coordination section contacts utilities when there is a need for relocation because of street or storm improvements. Utilities are given a schedule for

the work and they must relocate their utilities at their own expense in advance of the street construction.

Anaheim, California: All utilities, including the city-owned water and electrical utilities, pay for their own relocation costs. This City reported that they knew of no city in California where any relocation costs were paid for a privately owned utility company. Cable television is going into the Anaheim area this summer under a franchise with the City, and this company is required to pay all relocation costs.

Kansas City, Missouri: Utility companies pay their own relocation costs. The local cable television company is not entitled to reimbursement for relocations under their agreement with the City.

Denver, Colorado: All utilities pay their own costs for relocation except water and sewer, which is a city-owned utility and under the authority of the Director of Public Works, where the cost of relocation is borne by the project. This city is just getting started with cable television, and they have a franchise whereby this utility pays all relocation costs.

Knoxville, Tennessee: Every utility company pays its own relocation costs. The cable television company is on Bell poles and has its own agreement with Bell.

EPD/clg
aw4/epd45.1



TELEPHONES
 (907) 586-1325
 586-6526

204 N. FRANKLIN ST.
 JUNEAU, ALASKA 99801

March 29, 1983

To: Senate Community and Regional Affairs Committee
 From: Ginny Chitwood, Executive Director *GC.*
 Re: SB 67 - Utility Relocation Costs

Municipalities oppose SB 67 because the issue is a local one and should be resolved at the local level. This bill would amend Title 29, Chapter 25 - Protection and Use of State Highways and Roads (emphasis added). The changes in SB 67, however, don't relate to state roads; they deal with local roads.

It is easy to understand why there is a provision in law for the state to pay the utility relocation costs since 95% of the funding is paid by the federal government. In municipal road projects, however, there is no way to shift 95% of the costs to a non-resident third party. The costs are paid by the local taxpayer unless the municipality receives a specific state grant for a specific project.

Since cost figures vary widely depending on the circumstances of each road project, I was not able to generate any average municipal cost per mile figures, but I do have general comments from several municipalities.

City of Palmer - Manager David Soulak estimates the provisions of SB 67, without section 5, would cause a 5% to 15% increase on three road projects currently being planned. In many cases, utilities are not where they're supposed to be. He doesn't think that municipalities should have to pay for utility mistakes, but does not oppose the municipality paying to relocate the utility if it is put in according to a permit.

Matanuska-Susitna Borough - Manager Gary Thurlow basically agrees with Soulak.

City and Borough of Sitka - Administrator Rocky Gutierrez believes that municipalities shouldn't be in state statutes except in Title 29. Sitka has worked out an agreement with the non-municipal utilities.

City of Kodiak - Manager Sam Gesko opposes section 3 of the bill, making the relocation costs a municipal responsibility.

City of Fairbanks - Manager Wally Droz says there would be no effect on

the City of Fairbanks because their policy is to pay relocation costs, although the utility pays for any upgrades.

Fairbanks North Star Borough - Public Works Director Don Moore reports that current borough practice is for the utility to pay relocation costs so shifting the cost to municipalities would cut down on the amount of road work that could be done with the available money.

City and Borough of Juneau - Public Works Director George Porter says that cost allocations are decided on a case by case basis, depending on whether the utility is where it was supposed to be, the age of the line, etc.

City of Ketchikan - City Manager Jim Van Altvorst estimates that the bill would cost the city an estimated \$50,000 this year.

Municipality of Anchorage - Public Works Director Paul Diener believes that this is a local issue. Anchorage has a new ordinance in the works that would require the municipality to pay the relocation costs if the utility has a permit and is at the location specified in the permit; in other cases, the utility would be required to pay.

City of Kenai - Paying relocation costs would cut down the amount of road work the city could do. Attorney Tim Rogers points out that common law indicates that "Rights in streets or highways....are at all times held in subordination to the superior rights of the public".

Suggested by: City Council

CITY OF KENAI

RESOLUTION NO. 83-32

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA REQUESTING THE THIRTEENTH LEGISLATURE OF THE STATE OF ALASKA NOT TO BURDEN LOCAL GOVERNMENT WITH ADDITIONAL AND UNNECESSARY COSTS IN BUILDING, MAINTAINING OR REPAIRING ROADS WHICH ARE THE RESPONSIBILITY OF LOCAL GOVERNMENT BY PASSING SB 67 WHICH FORCES MUNICIPALITIES TO PAY THE COSTS OF RELOCATING UTILITY POLES AND/OR LINES IN CONJUNCTION WITH ANY OF THE MUNICIPALITIES' ROAD PROJECTS.

WHEREAS, the common law in the State of Alaska has always been that when a municipality requested a utility to move its poles or lines in conjunction with a road project undertaken by said municipality, that cost has been borne by the utility company, and

WHEREAS, the passage of SB 67 will only burden local taxpayers with additional costs which in the past have not been borne by the local taxpayers, and

WHEREAS, electric utilities have been provided an easement along said roads by municipalities without any cost to the utility,

WHEREAS, the utility will be a major benefactor from SB 67 at the expense of the local taxpayers, and

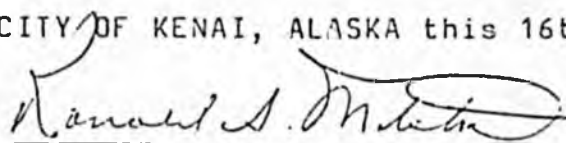
WHEREAS, transferring the burden of the cost of relocating utility transmission lines and poles to the public sector is contrary to the public good and welfare of the taxpaying public, and

WHEREAS, there is a strong possibility that with the passage of SB 67 it would discourage municipalities in many cases from trying to make appropriate and adequate repairs to existing streets because of the additional burden and therefore be detrimental and perhaps even dangerous to the motoring public in many municipalities.


NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, that said Council go on record urging the Thirteenth Legislature of the State of Alaska to defeat SB 67 on the basis that it appears not to be in the best interests of the citizens of the State of Alaska, and further that immediately after the adoption of this resolution the Clerk of the City of

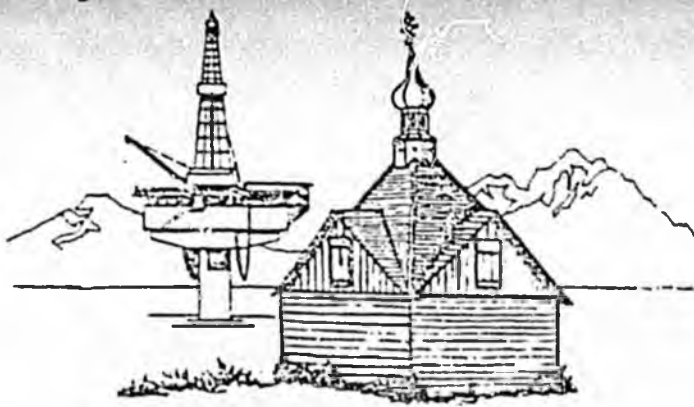
Kenai shall mail copies thereof to Governor William J. Sheffield, Senators Don Gilman and Paul Fischer, Representatives Hugh Malone, Milo Fritz, Bette Cato and Vern Hurlbert; in addition, the Chairman and Vice-Chairman of the House Labor and Commerce Committee, Representatives Walt Furnace and Rick Uehling and Chairman and Vice-Chairman of the Senate Labor and Commerce Committee, Senators Richard Eliason and Bob Mulcahy as well as the Alaska Municipal League.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA this 16th day of March, 1983.


Ronald A. Malston, Mayor

ATTEST:


Janet Whelan, City Clerk



CITY OF KENAI
"Oil Capital of Alaska"

P. O. BOX 580 KENAI, ALASKA 99611
TELEPHONE 283 - 7535

March 11, 1983

Honorable Richard Eliason, Chairman
Senate Labor and Commerce Committee
State of Alaska
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

In response to a request by you directed through the Alaska Municipal League in providing you with information on how much it will cost municipalities to pay for relocation of utilities in connection with municipal highway projects, please consider the following:

Homer Electric which is the provider of electrical power for the City of Kenai and the surrounding areas has indicated to the City that during the years 1980, 1981 and 1982, the cost for relocating their utility poles in conjunction with road projects undertaken by the City of Kenai cost in excess of \$300,000. In addition, for the last half of 1982, Homer Electric submitted a bill for \$60,000 for a particular road project that the City had under construction.

At this time, the City has refused to pay that bill and as a matter of fact, we now find ourselves in court with that utility over the dispute of whether or not the utility or the City is going to pay those costs. The City's contention is and will remain until directed otherwise that the utilities are in our right of ways at the sufferance of the public and therefore when the City undertakes a major road redesign or improvement project, the utility shall bear the cost for moving the poles to comply with the road design.

In addition to that, in 1982 the City had a downtown road project for which we were asphaltting almost a mile and a half of road, we requested that Homer Electric bury their lines in that area on the basis that it was downtown property. Homer Electric refused to bury those lines and we sat down and negotiated with Homer Electric and the City ended up paying for the burying of those lines and the cost to the City was \$75,000.

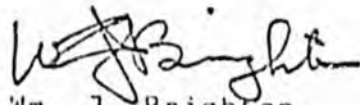
Now, as a matter of fact, we could have fixed two or three of our roads in this community that during breakup no-one can even drive down, citizens have to park their cars as far away as four or five city blocks from their home because the roads are in such condition during breakup they cannot be traversed.

It is for these reasons that the City opposes SB 67. The City's contention is that it always has been and should remain the utility's responsibility for relocating their utility lines when the City is improving the highway system from a safety standpoint and for a convenience standpoint for the traveling public in these communities.

At this point we have only talked about the electric utility, you must remember that if those costs are representative for the electric utility, most all of the telephone lines must be at the same time moved and on many occasions, the gas lines also have to be moved. If you multiply \$300,000+ then the City over the last three years was looking at a total expenditure of approximately \$1 million just to relocate the utilities in order to permit the City to repair and maintain the roads to benefit the traveling public.

It becomes obvious that a city of 5,000 people does not have the kind of money necessary in order to do the roadwork that we feel is our obligation and at the same time provide the money for all of the utilities which are private entrepreneurs and in the profit making business.

Sincerely,



Wm. J. Brighton
City Manager

WJB/dg

cc: Senator Don Gilman
Senator Paul Fischer
Representative Hugh Malone
Representative Milo Fritz
Alaska Municipal League

ANCHORAGE WATER & SEWER UTILITIES



3000 Arctic Boulevard
Anchorage, Alaska 99503
(907) 277-7622

rony Knowles
Mayor

Owned by the Municipality
of Anchorage

March 7, 1983

Senator Eliason
Chairman, Labor & Commerce
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

RE: SB-67

Dear Senator Eliason:

From the perspective of water and wastewater facilities, passage of the subject legislation should not have a significant impact on the cost of municipal road improvements.

In Anchorage for example, it is rare when a municipal road improvement impacts much more than the surface or above surface water and wastewater facilities. Generally this would include moving fire hydrants, adjusting sewer manhole elevations, adjusting water valve box elevations, etc. These type of relocations cost AW&SU approximately \$100,000 in 1982, a year with significant road improvement activity.

An exception to the above would be a situation where a road improvement project necessitated relocating an entire stretch of water or sewer main. Generally this only occurs when the road grade is lowered so much that freezing becomes a potential problem for an existing facility. In these cases relocation could cost as much as \$100 per lineal foot of pipe, including appurtenances.

If the Anchorage Water and Wastewater Utility can provide any further information please contact either myself or Brian Crewdson at 265-5561.

Sincerely,

ROBERT E. SMITH
General Manager
Anchorage Water & Wastewater Utility

RES/BIC/slr
H/SE

cc: Alaska Municipal League ✓
Pa.rick Anderson
John Harshman



THE HEART OF THE MATANUSKA VALLEY

Document # 4

CITY OF PALMER

COUNCIL-MANAGER GOVERNMENT
P.O. BOX 1368 • PHONE (907) 745-3271
PALMER, ALASKA 99645

February 7, 1983

The Honorable Richard Eliason
Alaska State Senate
State Capitol
Pouch V
Juneau, Alaska 99811

RE: SB-69-67

Dear Senator Eliason,

The City of Palmer opposes SB-69⁶⁷ in its entirety and for good reason.

Matanuska Telephone Association (MTA) has operated since 1972 without a franchise with the City of Palmer after the original franchise lapsed after twenty years. During the last ten years plus, MTA has embarked upon an underground burial program without obtaining permits or approval of the City for use of their right of way.

While Matanuska Electric Association has had a franchise since 1952 and renewed this in 1972. The MEA franchise stipulates that all relocations will be at their expense.

MTA's burial program may have not been too bad if they would have stayed adjacent to the property line as the municipal code spells out, but this was not the case.

Last September, we let contracts for paving of various streets using per capita money as seed money for special assessment districts. From the onset of construction we had problems. In one street, we had cable buried, from the left to right at 6'-0"±, 12'-0"± and 18'-0"± in a sixty (60) foot right of way. Since this street according to our Comprehensive Plan is designated as a residential collector street its design width is forty four (44) feet back of curb to back of curb. The bill MTA has sent to the City of Palmer for relocating approximately six hundred (600) feet in this situation is \$19,329.06.

In addition to this sum, we received a bill from the cable television installation company for damages too.

Now, this brings up another item. Prior to the cable television installation, we advised the contractor along with MTA representatives that the cable should be buried no more than six (6) feet from the property line and all street crossings to be a minimum three (3) feet deep. This was sent formally to MTA in the form of a letter. Since MTA hired a private contractor for this work, it was the private contractor's goal to bury as much as soon as possible. Even though every single parcel of land in the City has been surveyed at one time or the other, neither MTA nor the private contractor took the time to locate any property pins. There were instances we had them relocate cable since they were well beyond the six feet. Their reasoning was that they measured off the centerline of our dirt streets. Even so, the centerline of a street is not always the centerline of the right of way. This is especially true of non-permanent streets.

The Honorable Richard Eliason
February 7, 1983
Page 2

Further, the cable drop services to the residents which crossed the street were buried less than one (1) foot deep. MTA was advised of this fact and they said to cut the service as they are in the wrong.

On another street that was bid in the September street bid package, MTA has billed us \$22,248.55 for relocation expense when the cable meandered through the right of way up to twelve (12) feet into the right of way and was from six (6) inches to two (2) feet deep.

On another street, we were billed \$2,414.79 for cable relocation that varied from being on private property to ten (10) feet into the right of way to avoid bushes and branches. The reason for these costs being so small is that the street was not located in the center of the right of way and the shifting of the street did not cause as much relocation as normal, besides it was in an open area lacking of vegetation.

These costs will add between five and fifteen (5-15%) percent to the project cost depending upon street design. Each street will vary with the degree of encroachment.

We would agree that if utilities were placed in accordance with a permit issued by the City or Municipality and relocation was at our request, then we would be willing to pay for the costs. But to absolve the utilities, as in our case, Matanuska Telephone Association and Matanuska Electric Association, of prior helter skelter installation is inequitable and unjustified.

This naturally is a concern to the utility companies as they, in most cases, have gone about placing their utilities without care for proper placement.

Now with the possibility of natural gas being brought into many parts of the Matanuska Valley, utility corridor placement plays a larger role especially in the City of Palmer.

When the City of Palmer installs water, sewer or storm sewer, we engage the services of a professional engineer to design and stake out the construction to insure proper alignment and grade. It increases our costs marginally, but this is what all utilities should be required to do and we wouldn't have the conflicts that now exist. Anyone can draw lines on paper but the field installation is where it counts.

The problems and costs previously cited caused contractor delays which may or may not show up in the final construction costs since only the excavation and sub-base were completed last fall.

As City Manager of Palmer and Secretary-Treasurer of the Alaska Municipal Manager's Association, I urge you to vote against this bill in its present form.

Should you have any questions, please contact me.

Yours truly,

David L. Soulak
City Manager
City of Palmer

cc: Senator Jalmar Kerttula
Representative Ron Larson

Representative Barbara Lacher
Ginny Chitwood, AML

S

B

78

Ken Ryals office 4-21-83

I. REQUEST

Bill/Resolution No.: CS SB 78 (Hess)
 Title: Teachers' Collective Bargain Agmts
 Sponsor: Health, Educ. & Social Serv.
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected: Independent Oper
 BRU, Program of Subprogram(s) Affected:
Labor Relations Agency

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	-0-	-0-	0-	-0-	-0-	-0-
200 TRAVEL	-0-	7.5	4.7	4.7	4.7	4.7
300 CONTRACTUAL	-0-	27.6	17.3	17.3	17.3	17.3
400 COMMODITIES	-0-	0.4	0.3	0.3	0.3	0.3
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	35.5	22.3	22.3	22.3	22.3
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	35.5	22.3	22.3	22.3	22.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

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

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

None

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Ken Ryals *Ken Ryals*
 Division: Administrative Services

Phone: 465-2277
 Date: 4/21/83

Approved by Commissioner: Lisa Rudd *Lisa Rudd*
 Department: ADMINISTRATION

Date: 4/21/83

Distribution:

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

3/8/83

- A. Assumptions: Since this bill will make the three member State Labor Relations Agency (LRA) serve as the majority of the new, five member Educational Employees Labor Relations Agency (EELRA), it will add to the LRA's workload. Our experience with implementation of the Public Employment Relations Act leads us to believe that the workload increase will be most pronounced during the first year of operation under the new law, as bargaining units are set up and representation elections conducted. Subsequent years' workloads will be permanently higher than present, since a larger client group will permanently be served, but the lasting impact on workload will be significantly less than the initial impact. We have assumed a 40% workload increase (above present) for the first year; subsequent years' workloads are assumed to be 25% higher than the present.

While serving as the EELRA, travel and per diem costs will be proportionately higher, since five members will be participating instead of the present three.

- B. Program Summary: Present Labor Relations Agency services include bargaining unit determination; conducting representation elections, investigation and conciliation of complaints, holding hearings, and issuing orders and decisions. A larger client group - educational employees, their representatives, and school boards - will receive these services. No new positions will be required; none presently are authorized. Since office and legal services are contracted for, there will be a significant increase in contractual services. Travel and per diem will also increase with the size and workload of the Agency.

- C. Computations: 1. First year under CS SB 78 - FY84

- 200 Travel: Funded @ \$11.2 for FY83. This is for three members (\$3.7 ea.) with an assumed workload of 1.00. If workload is increased to 1.40 and five members participate in the new case load, the increase in travel funding requirements will be:

Three existing members: $\$11.2 \times .40 = \4.5

Two new members: $\$3.7 \times .80 = 3.0$

Total FY84 Travel Increase \$7.5

300 Contractual: Funded during FY83 at \$69.0. Increase of .40 = \$27.6

400 Commodities: Funded during FY83 at \$1.0. Increase of .40 = \$.4

Total FY84 Increase \$35.5

2. Subsequent years under CS SB 78 - FY85-88

200 Travel:

Three existing members: $\$11.2 \times .25 = \2.8

Two new members: $\$3.7 \times .50 = \1.9

Total FY85-88 Travel Increase \$4.7

300 Contractual: $\$69.0 \times .25 = \17.3

400 Commodities: $\$1.0 \times .25 = \$.3$

Total FY85-88 Increase \$22.3

SENATE COMMITTEE REPORT (HESS) - CSSB 78

Mr. President:

For years, the representatives of certificated school employees have asked for a change in the way disputes between their bargaining groups and school districts are resolved.

The matter is important to the public for several reasons. Alaska needs to attract and retain qualified school personnel. Alaska should avoid disruptions in the school year. An orderly and fair way to resolve disputes should be provided for.

The administration recommended that school boards be given the right to choose among three procedural options -- granting employees the right to strike, submitting to mediated arbitration, or granting employees the right to "limited strike" (strike for a limited time period).

The administration proposed that school boards be allowed to exercise these options after a dispute has arisen.

Your Committee preserves the idea of the school boards' right to select procedural options, but the Committee Substitute would require that the school boards make their respective option choice within 90 days after enactment of the bill, or thereafter from time to time but not while a dispute is in progress. The so-called "limited strike" option is removed, since testimony showed no compelling reason for its inclusion and indicated that this option would rarely, if ever, be chosen.

The Committee Substitute introduces the "last best offer" approach to mediation and arbitration. The Committee Substitute reflects the belief that by requiring the arbitrator to select between the settlement package proposed by management and the settlement package proposed by the employees, both sides will be induced to narrow the differences between them and to adopt reasonable positions.

The Committee Substitute expressly retains the boards' right to make final decisions on educational policies.

At present, there exists within the Department of Administration the State Labor Relations Agency. In school employee matters, this agency would serve as part of the educational employees labor relations agency. The agency would consist of three members of the State Labor Relations Agency augmented by two additional members to be selected by the Governor, one from a list submitted by the National Education Association-Alaska, and one selected from a list submitted by the Alaska Association of School Boards.

Among the educational employees labor relations agency's functions would be the determination of appropriate negotiation units; determinations as to the need for elections to resolve questions of representation in a negotiation unit; the determination of the eligibility of voters in such elections and the rules governing elections.

Sectional Analysis:

14.20.540. Declares the policy supporting collective bargaining in the public schools.

14.20.550. Includes noncertificated employees in the requirement that school boards negotiated with employees on matters pertaining to their employment, in good faith; defines "certificated employees" to include teachers, counselors, principals, assistant principals, and 'other certificated administrative personnel', but excludes superintendents, assistant superintendents, and other 'certificated executive administrative personnel who the educational employees labor relations agency determines to be inappropriate members of an employee negotiating unit.'

14.20.555(a). Corrects language in the existing law to address the new provisions for negotiations with noncertificated personnel in REAAS.

14.20.560. Provides that the educational employees labor relations agency will decide the appropriate unit for purposes of negotiation, and sets out criteria or factors to be used by the agency.

14.20.560(b). Contains procedures for representation elections within a proposed negotiation unit.

14.20.560(c). Prohibits a representation election in a negotiating unit if a valid election has been held within the preceding 12 months.

14.20.560(d). Permits a school board to recognize an employees' organization as the employees' exclusive representative, by consent of the board.

14.20.560(e). Limits the agency's power to direct an election to the 90-day period before the expiration date of the employer-employee agreement, except upon a petition of persons in the negotiating unit, who are not parties to the agreement, if more than three years have elapsed since the execution of the agreement or the last timely renewal of the agreement.

14.20.560(f). Permits noncertificated employees, or certificated administrated personnel groups, to decide by secret ballot to negotiate independently of other school personnel. Requires the educational employees labor relations

agency to conduct a representation election in such circumstances, upon petition of 25 percent of the employees in a proper negotiating unit.

14.20.565. Requires the school board, on request of an employee bargaining organization, to meet with the organization's representatives within 20 days after the request. Reciprocally, requires the employee bargaining organization to meet with a school board or its representatives within 20 days after its request.

14.20.565(b). Permits negotiation meetings to be in executive session, except that all final agreements shall be made at a public meeting of the school board.

14.20.570(a). When an employee bargaining agency or a school board certifies that the parties cannot agree on an independent private mediator, and that good faith negotiations have terminated in an impasse, and the requesting party asks for mediation from the U. S. Federal Mediation and Conciliation Service, the requesting party must notify the educational employees labor relations agency. This paragraph deletes provisions requiring a mediator to reduce "all the agreed terms, conditions and other items to a written contract" within 30 days "of the initial meeting of the parties (unless the parties mutually agree to extend the period)." This paragraph also deletes language in present law governing the size of the negotiating team that appears before the mediator.

14.20.580. Requires the mediator to notify the educational employees labor relations agency either when the parties reach agreement or when the mediator determines that they are at impasse. Provides for a 10-day cooling-off period following mediation.

14.20.581. Provides the "local option", i.e., the school board's right by resolution adopted following public hearing to decide "whether last best offer mediated arbitration or the right to strike shall follow the mediation procedure." However, the board's resolution shall be adopted before the "mediation process begins." (However, the parties may mutually agree to modify the option selected originally by the board).

14.20.582. Provides that where a school board has taken the right-to-strike option, a strike may occur if a majority of the employees in the bargaining agency elect to strike. Provides that where the employees vote not to strike, the school board shall not be required to participate in arbitration. Provides that "an aggrieved person" may apply to the Superior Court to enjoin a strike, and an injunction can issue if the strike "threatens the health, safety, or welfare of the public." If a strike is enjoined by the Court, after considering "the total equities", and an impasse still

remains, the parties shall submit to arbitration. Provides that elections under this section will be conducted by the educational employees labor relations agency.

14.20.583. Provides for arbitration if the school board's "local option" is the non-strike option, or if arbitration arises after a Court injunction against a strike, or where a strike has occurred in a district which permits strikes and a majority of the employees in the bargaining agency have elected to strike. Provides that the educational employees labor relations agency may direct the parties to use the services of and comply with the procedures of the Federal Mediation and Conciliation Service or the American Arbitration Association, if the parties are unable to otherwise agree upon a mutually selected arbitrator.

14.20.582(b). Provides for mediated arbitration. The parties are to submit evidence to support their respective positions before the arbitrator. Each party can respond to the other's evidence. The arbitrator may propose compromises. The arbitrator, on his own motion or the request of either party, may call for a public meeting to allow the parties to present and explain their "last best offer(s)". Before final submission to the arbitrator for decision, the arbitrator shall allow each party "to revise its last best offer."

14.20.582(c). Sets out the factors which the arbitrator will take into consideration.

14.20.582(d). Requires the arbitrator to adopt "without modification" the last best offer of either of the parties.

14.20.582(3). Requires the parties to share the cost of the arbitrator equally.

14.20.584. Provides for the confirmation by the Court of the arbitrator's award, and provides for Court vacation of an award in certain circumstances similar to those applicable under the Alaska Arbitration Act.

14.20.585. Provides for modification or correction of an award, under circumstances similar to those applicable in the Alaska Arbitration Act where modification or correction is provided for.

14.20.590. Requires grievance procedures and a definition of "grievances" in all agreements. Requires each agreement to provide a method for the selection of an arbitrator to resolve grievances.

14.20.600. Requires the educational employees labor relations agency to set forth procedures to safeguard the rights of "nonassociation" of employees having "bona fide religious convictions."

14.20.605. Establishes the educational employees labor relations agency, as explained above. Members of the agency receive no compensation, but are entitled to per diem and travel expenses. The agency may employ staff to implement the provisions of the chapter.

14.20.606. Functions set out in AS 23.40.120 - 23.40.180 are to be performed by the educational employees labor relations agency, as well as specific functions set out in this chapter. The school board and the employee organization alike are prohibited from "unfair labor practices", as described in AS 23.40.110.

14.20.610. Reiterates the power of school boards to "make final decisions on educational policies."

Sec. 13. (Temporary Provision). School Boards must make their initial local option decision between last best offer mediated arbitration and the right-to-strike within 90 days after enactment of the chapter.

Sec. 14. (Temporary Provision). "Grandfather" clause for existing negotiating units and negotiating agreements.

Sec. 15. (Temporary Provision). The effective date is to be immediate.

Respectfully Submitted,

COMMITTEE ON HEALTH, EDUCATION
& SOCIAL SERVICES


By: Joe P. Josephson, Chair

S

B

134

Offered: 4/18/83
Referred: Rules

Original sponsor: Mulcahy

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2

CS FOR SENATE BILL NO. 134 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to surety bond and financial re-
7 quirements for insurers of surplus lines."

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

9 * Section 1. A 21.33.160 is amended to read:

10 Sec. 21.33.160. FILING SURETY BOND AS A CONDITION TO LICENSE.
11 Before receiving a license the applicant shall file with the depart-
12 ment a surety bond in favor of the state and insureds in the penal sum
13 of \$50,000 [\$25,000]. The bond shall be issued by an authorized
14 corporate surety approved by the department. The bond shall be condi-
15 tioned on the conduct of business under the license in conformity with
16 the provisions of this title, including the payment of all taxes
17 required to be paid by this title. The applicant shall keep the bond
18 in effect during the period of the license. The surety may terminate
19 the bond by giving at least 30 days written notice to the department.

20 * Sec. 2. AS 21.33.180(a) is amended to read:

21 (a) A surplus line broker shall ascertain the financial condi-
22 tion of an insurer before placing insurance with the insurer [HIM]. A
23 broker may not place or renew surplus line insurance with an insurer
24 which the broker [HE] knows or should with due diligence, determine to
25 be financially unsound, nor may the broker place surplus line
26 insurance with an insurer which has capital and surplus of less than
27 \$1,500,000 [\$600,000] unless there is on file with the department a
28 copy of a trust agreement, certified by the trustee, evidencing an
29 existing trust of at least \$1,500,000 [\$450,000] which is deposited by

25,000

1 the insurer in a United States bank or a United States trust company
2 and held for the protection of the insurer's United States
3 policyholders. The department may waive the financial requirements in
4 this subsection in circumstances in which insurance on risks located
5 in this state cannot be procured under the requirements.



Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SB 134

Sectional Analysis:

- Section 1) Increases the surety bond requirements for a surplus lines broker from \$25,000 to \$50,000. This proposed increase would have the effect of placing the surplus lines broker under more thorough scrutiny by the surety posting the bond. The bond can be accessed by the state for recovery of unpaid taxes by the broker, and the addition of the words and insureds would allow the consumer to recover at least partial recompense for losses resulting from a policy placed with an insolvent company.
- Section 2) Increases the capital and surplus requirements for surplus lines insurance from \$600,000 to \$1,500,000. In the alternative to that capital and surplus requirement, a trust agreement of \$1,500,000 [currently \$450,000] would be sufficient.



Alaska National INSURANCE COMPANY

A policy of service and protection

LEGISLATIVE POSITION PAPER:

LEGISLATION:

Senate Bill No. 134

PURPOSE:

An act relating to surety bond and financial requirements for insurers of surplus lines.

SUBSTANCE:

This measure would increase the bonding requirements for surplus line brokers and would increase the surplus requirements for surplus line insurers permitted for use in this State by surplus line brokers.

POSITION:

Not opposed.

ACTION:

No action is necessary, however, if asked you might suggest certain improvement amendments.

BACKGROUND:

In order to do business in the State of Alaska, an insurer must be authorized by the Division of Insurance to transact insurance in this State. As a condition of issuing the Certificate of Authority to an insurer, the Division requires that the insurer comply with the rating and form requirements imposed upon all insurers. Often times risks require coverages which a carrier cannot provide within the framework of approved rates and forms; and, thus, goes outside the State of Alaska to procure the insurance from carriers which are not authorized to write business in this State. Surplus line brokers are those brokers who are specially licensed to procure insurance outside the State of Alaska from carriers not authorized to write in this State for risks in this State that cannot otherwise acquire those coverages. Examples would be aviation liability or hull insurance, insurance on special properties located in remote areas and other hard to place risks.

This business is referred to as surplus lines or excess insurance.

Though the Division of Insurance has no jurisdiction over these unauthorized insurers, it does have jurisdiction over the surplus-line brokers which procure the insurance and it attempts to protect the buying public by limiting the actions of the surplus line broker. This is, since the insurers are not regulated, only brokers with special experience are permitted to access these otherwise unauthorized insurers. It is appropriate that the bond be increased and it is appropriate that the surplus requirements for those unauthorized insurers which the surplus line brokers uses, be increased.

One of the difficulties with the existing law is that it does not require the surplus line broker to maintain any kind of surveillance over the financial condition of the unauthorized insurers; and only requires that at the time the insurance is placed, the broker have no knowledge of the insurers financial unsoundness.

I would argue that the broker has an ongoing responsibility to review the financial condition of the unauthorized insurers which it uses, and I would suggest that the language be modified to read as follows:

21.33.180 (a) "A surplus line broker shall ascertain the financial condition of an insurer before placing insurance with the insurer. A broker may not place or continue surplus line insurance with an insurer which the broker knows or should with due diligence, determine to be financially unsound, ... [Emphasis on language recommended to be added-other language as per amendment proposed by SB 134]".

SB 134, Line 21 to 24.

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

POSITION PAPER

SB 134: An act relating to surety bond and financial requirements for insurers of surplus lines.

The Administration favors the passage of SB 134. This bill is admittedly a "band-aid" approach to resolving the shortcomings of the surplus lines law in the insurance code. It does allow time to effect a more thorough review of the surplus lines law by correcting some of the more glaring deficiencies in the law.

The bond requirements for a surplus lines broker was last revised in 1970. The purpose of such a bond is to prequalify the license holder. If the bond is of sufficient size, this is accomplished as the surety providing bond does a more thorough job of checking the person to be bonded. If the bond is not large enough, the surety may tend to be lax in its efforts. The bond should also be sufficient to provide some protection for the State and the public. Recent occurrences suggest that a \$25,000 bond may no longer be adequate. A \$50,000 bond is a reasonable step up until the issue is considered as part of a broader action.

The current minimum for an admitted multiple line property and casualty insurance company is \$1,500,000. The surplus lines law which is unchanged in this regard since 1970 requires only \$600,000. This is woefully inadequate, particularly since that market is basically not subject to State regulation except, perhaps, in its domiciliary state. An increase to a level that is required of an admitted company or one newly forming in this State is a reasonable step.

This is a good bill and we would urge its passage.



4/13/83

Richard A. Lyon, Commissioner

Don Mack

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 134 Date on Bill: 2/22/83
 Title: An Act relating to surety bond and financial requirements for insurers
 Sponsor: Mulcahy of surplus lines.
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

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

b. Revenues:

Revenue		0	0	0
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2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:

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

Prepared By: Kenneth C. Moore, Director
 Division: Insurance

Phone: 465-2515

Date: 3/9/83

Approved by Commissioner: Richard A. Lyon
 Department: Commerce and Economic Development

Date: 3/9/83

5. Distribution:

Original to Legislative Finance

Copy to OMB

Copy to Sponsor

Copy to Requestor

Fiscal Note

2/15/83

INSIDE INSURANCE

Big losses raise question of 'moral hazards'

'Most people are not in a position to make money off of sinking their vessel'

by Robert Mann

Millions of dollars worth of fishing vessel losses in 1982 have broken over Seattle's marine insurance community like a rogue wave at sea. The result, according to brokers and underwriters, could be that fishermen will be paying higher deductibles and premiums in the very near future.

Although the Coast Guard does not keep track of the total number of fishing vessels and processors lost in a given year, some worried underwriters are drawing up lists of their own. The 1982 numbers look pretty grim to companies that are insuring Alaskan fishing vessels.

According to one list, there have been over \$48 million worth of total losses of crabbers, seiners, draggers, processors and gillnetters through November of 1982. Five processors, three of which burned and sank within a six week period,

accounted for \$29 million worth of the total; the *Al-Ind-Esk-A-Sea*, which burned and sank off Everett on October 22, was perhaps the most spectacular of the losses. Another underwriter said over \$22 million worth of crabbers sunk, burned, or ran aground this year.

Bad times seem to bring an increase in the number of reports of vessel owners burning or deliberately sinking their boats to collect the insurance money so they can get out of the business. The fact is, though, that not much is usually gained from that kind of act, according to several underwriters.

"When people are going broke, it seems that the friction of the mortgage against one's wallet seems to heat up the back of the boat, and away she goes," quipped John Adams. Adams manages Pacific General Agency, Inc., a company that insures millions of dollars worth of fishing vessels throughout the U.S.

Adds Adams: "It really does a fisherman no good to file a claim or

have a convenient loss, if he is going to lose his ability to make a living. Most people are not in a position to make money off of sinking their vessel. At best, they usually get the mortgage paid off."

Maurice Oaksmith, an insurance broker, agrees with Adams for different reasons. "I really don't think that 'moral hazards' (intentional sinkings and burnings) are a factor right now, even with the depressed state of some of the fisheries. I've got great faith in human nature, particularly in the fishing industry."

Others in the insurance business, however, do not share Oaksmith's "faith" in human nature in the fishing fleets. One president of an insurance company here instructed his underwriters not to carry any more lines on converted processors, which he labeled, "floating fire hazards." Another marine insurance underwriting firm, Mathews & Livingston, Inc., bailed out of the fish vessel business in 1981 because "it is a volatile market and we were

looking at doubling our rates from our London connection," says a company spokesperson.

"My friends at Lloyd's say the Northwest and Alaska losses have just about destroyed their marine underwriting syndicate," says a former British underwriter who has worked in the U.S. marine insurance industry for two years.

Lloyd's and other western European companies that assume part of the risk on American fishing vessels are quoting prices that many U.S. brokers and underwriters are finding hard to sell to customers. An understanding of why the European insurers are shying away from the fishing vessel business requires a brief explanation of how marine insurance works.

Imagine a pyramid with the broker or underwriter sitting at the top. The fisherman comes into the office, and tells the broker or underwriter what kind of policies he wants and what he is willing to pay. (Most fishermen are covered for losses or damage to the hull and

machinery. A fisherman, no matter what his past record, can usually find someone to insure him.) The broker then goes to his underwriters—the first set of risk-takers, who usually carry only a small percentage of risk themselves. The risk on expensive fishing vessels is always spread out among re-insurers.

The most reliable re-insurers are in London at Lloyd's or the Institute of London Underwriters and other western European countries. Those companies, though, may spread the risk even further down the pyramid. At the bottom of the pyramid, you might find that a company you never heard of in Latin America might be assuming a fraction of a percentage of the total risk on an Alaskan fishing vessel. When claims are made, payment starts at the pyramid's bottom and works its way up.

According to Adams and others, North Pacific fishing vessels have a bad reputation in the European re-insurance market, hence the doubling and tripling of rates in the last two or three months. As a result of the increases, some smaller companies have been forced to seek reinsurance with unproven foreign security firms.

"The London and Western European reinsurance markets have just dried up," says Adams. "It's imprudent for a company like ours to hold all the risk on a crabber with a high degree of hazard. We have to have re-insurers and as these re-insurers drop out, there goes the market."

In the competitive marine insurance business, some companies are so hungry for premium dollars they are re-insuring through companies in South Africa, the Bahamas, and Hong Kong. "You have to realize that there are over 600 companies based in Hong Kong alone, and most of them are only a name in the phone book," said Adams, who adds that many claims go unpaid. "Many of the foreign securities firms will disappear before the claims can get in."

Says Maurice Oaksmith, "Insurance companies and syndicates make money from underwriting and investment income. Now that interest rates are lower on short-term money, the competition for insurance premium dollars is getting even heavier. Some people want to make a quick killing by buying their reinsurance as cheaply as possible so that they can keep most of the premium. They tend to stray into left field re-insurers."

Oaksmith says that "If underwriters are selective, and properly re-insured, they can make money writing fish boats at or near the level of where premiums are today."

John Adams knocks on his desk and says his firm has made money. "We have tried to be cautious with those people that we suspect." But Adams feels that most marine insurance underwriters and brokers today do not know their market. "In the past few years we've seen the inundation of the marine insurance market with inexperienced people with all kinds of capacity. There have been more and more companies coming in and diving right out again after a few hard licks."

damn good salesmen who are very gullible because they don't want to know the truth about the security they're representing. If it's an undesirable risk, it will usually end up with what we consider to be the less inquisitive underwriters who fail to ask the questions they should ask."

Adams maintains that there are very few underwriters who truly understand the fishing business well enough to know when to ask if a person is a "known troublemaker with a poor record in the past. Some people, though, are not crooked, they're just doggone unlucky," says Adams.

Adams feels most underwriters insuring fish boats should know how machinery operates so that they can know if a claim is legitimate or not. "Most underwriters don't know anything about claims. Unfortunately, the claims people think the underwriters know everything," says Adams.

Although Adams has worked around fishing boats a long time, he says he is often too busy to get the chance to visit the docks to inspect fishing vessels he insures, although he says he tries to as often as possible. Like others, he relies on marine surveyors, the eyes and ears of every underwriter or broker. (See accompanying story.)

Marine surveyors perform condition and valuation (C&V) surveys for vessel owners, insurance companies, and banks. They check a vessel's wiring, construction, deck equipment, rigging, navigation equipment, electronics, cabin arrangements, safety and life saving equipment, hydraulics, engine room, and even the vessel's housekeeping and appearance. They also note any recommendations for improving the vessel before reaching what they feel is a fair market value for the boat.

"Surveyors have a pretty good feeling for what a boat's value is, and they understand replacement costs," says Oaksmith. "But there can be honest differences of opinion between a surveyor and a boat owner."

Some surveyors say they are pressured to keep boat values high even though their market values might be depressed in a weak market. According to one surveyor who ran a C & V survey on a large

floating processor in 1979, the vessel's owners pressured him to keep the value high because the bank had loaned them a lot of money on processing equipment. The surveyor says he told the owners that the boat had no track record and needed more work, so he valued it substantially less than what the owners had wanted.

"I gave them two legal-sized sheets of repair and safety recommendations, and two months later they had somebody else doing the survey. They obviously wanted someone who would agree with their value," the surveyor says. He asked to remain anonymous. "I have quit one job before because the guy hasn't done what I've asked him to do. But within a week he's got insurance from somebody else."

"What's happening in the present market is that a lot of people are not insuring market values. They're insuring investment value," says another veteran surveyor. "A lot of money had to be put into that processor to get her operable, and



Maurice Oaksmith

BOAT INSURANCE

continued from page 31

the company wanted to insure that investment."

However, other surveyors say they are rarely pressured into inflating vessel values. John Adams, for instance, says "Sometimes the vessel owner wants surveyors to debate the value because he doesn't want to pay the money on high insurance premiums on boats that are fully paid for."

"Most surveyors know what they're doing," says one claims investigator, "but some have great gaps in their experience and training. Some surveyors specialize in cargo only, others in tug boats, others in yachts, and some in crab boats. Frequently their expertise is limited to their specialty class of vessels, and they're not able to adapt well to new classes."

Adams adds, "The jam is that many people will accept a surveyor's

report on a matter for which he is not truly qualified."

Surveyors have already formed their own national association fifteen years ago in an effort to police their own trade. In order to join the National Association of Marine Surveyors an applicant must have at least five years full-time surveying experience and he must pass an exam on his specialty class of vessel. "It's still in its infancy," says one member.

Whether an underwriter or vessel owner decides to hire, fire or believe a surveyor does not diminish the importance of their C & V surveys. When claims are paid, they are the most important records available, because foul play is almost impossible to prove. Underwriters rarely go to the bother and expense of trying to prove arson or intentional sinking; they simply pay the claims based on a vessel's surveyed value. Raising the vessel and re-surveying it is the only way to change the surveyed value.

Adams jogs his memory back to 1958 when a wooden seiner sank in the Puget Sound and the underwriters raised the vessel. "There were funny ax holes in the bottom of the boat that were made from the inside. These rapid termite jobs are good for some people, but when an owner gets caught with evidence like that, it is a federal crime and the punishment can be severe. From an underwriter's standpoint, you have to look at how much a mortgage is on a vessel before thinking about deliberate sinkings.

"It's easy to say that when the mortgage is high and the values are dropping beneath the mortgage, it

becomes advantageous to have an accident. But that's only part of the story," says Adams.

"The other part is that people are working harder and pushing their crews harder and harder trying to make a profit. Everybody gets tired."

Maurice Oaksmith, who grew up on Alaskan fishing boats, says, "I think fishing vessels in many ways are a better risk today than they were four years ago. There are many more alarms, detection devices, and better navigational equipment. But one thing you've got to guard against, as technology advances, is complacency."

Adams blames accidents involving some crabbers on "electronic creature comforts" along with drug use by younger crew members who doze during their wheel watch.

In some cases, though, he says accidents are not due to overwork, drugs, or high-tech instruments. "In Bristol Bay we never have a total loss prior to the season unless it's truly accidental. It always seems to happen just before the end of the season, and "Oh, my god, the fire started," or "I hit a rock." There aren't very many rocks in Bristol Bay, so they either swamp or burn.

"It always happens where it's hard to recover the boat, in the dark of night; a friend just happened to be coming along and he saw the fire, and 'I got off without getting my tennie runners wet.'"

Adams admits that he is speaking somewhat facetiously; he knows that Bristol Bay permits can cost up to \$100,000. Yet he sincerely feels that "moral hazards"—"sinking the damn boat"—are higher these days,



John Adams

and the way to prevent them is to make sure the owner starts accepting some of the risk.

He looks back to the 1930's during the Great Depression when there were a lot of similar vessel losses occurring. According to Adams, an underwriter would co-insure the vessel, assuming only part of the risk in case of partial losses; the owner would pick up the rest. The other alternative he sees is charging very high deductibles.

Adams thinks strict Coast Guard enforcement of safety regulations helps reduce risk, too. Under Section 46, Parts 24 through 26 of the Code of Federal Regulations, the Coast Guard can board uninspected fishing vessels and check for safety and fire fighting equipment violations. But Coast Guard spokespeople say they do not have the manpower to check fishing vessels unless they receive a specific

See BOAT INSURANCE page 45

BOAT INSURANCE

continued from page 34
complaint.

Maurice Oaksmith, one of the founders of the National Council of Fishing Vessel Safety and Insurance, says the "industry ought to consider self-regulation. The principal reason for forming this national group was that insurance costs were high, and the only way to bring them down was to decrease the severity and frequency of accidents. I would say that about 90% of all accidents and fatalities are avoidable. Usually they result from somebody doing something they shouldn't do."

There is a general consensus among marine surveyors, underwriters, and claims investigators

that human error, due to lack of adequate training, is responsible for many legitimate accidents. In the case of converted floating processors, however, there are other dangers.

During the conversion process, bulkheads and cofferdams are usually removed to make more room for processing equipment, forklifts, and elevators. "They cut out watertight bulkheads so it's easier to move cargo down to the freezing holds and along the processing leek," explains surveyor Jim Goldade.

"In the case of one processor," says another surveyor, "all three holds had been cut through all the way back to the engine room. You can pump such a vessel full of water,

but you've got no way to pump it out again. There are no subdivisions to control flooding or fire in these vessels."

Highly flammable polyurethane foam is also an acknowledged fire hazard aboard such processors.

"We've glossed over these problems in the last few years because of a very competitive insurance market, due to excess capacity and underwriters seeking premiums at any cost," says one concerned claims investigator. "Now that interest rates are declining and losses are continuing to accelerate, the conditions are set for a scarcity of insurance and possibly a recognition that standards will be necessary if losses are to be controlled." □

S B

174

1978

Recommendation No. 1

The statutory requirements for the ATC to regulate bulk-type carriers and recreational air carriers should be eliminated.

The Commission has supported the deregulation of bulk carriers in dump-type equipment. As pointed out in the "78" audit, a considerable amount of Staff time is spent in reviewing applications for authority and collection of annual reports. For calendar year 1982, 59% of all original applications for motor carriers was filed for dump-type authority.

The Commission has taken steps to make the application process for dump trucks as simple as possible while still insuring that the applicant is fit, willing, and able. The method the Commission has used to ease entry is to find in several orders that a continuing need exists in the construction industry for dump trucks and have found that public need can be satisfied by written shipper support. The Commission cannot prevent existing carriers from protesting new applicants as happened in 1982, which resulted in 31 1/2 hours of hearings.

It would be the Commission's suggestion that dump trucks involved in supporting the construction industry be deregulated as to entry, tariffs, and annual reports. Such carriers should be required to register, pay weight fees, provide proof of insurance necessary to protect the public, and be fully covered by the commercial vehicle safety program.

By amending Regulation 3 AAC 68.010 in 1980, the Commission defined who did not need an air taxi certificate. The Regulation as approved basically states that a certificate is not needed if the air transportation is incidental to another business. It has been the Commission's policy that guides and lodge owners would not need certificates if the air transportation is part of the package offered to the guest or client, and as long as such operators do not charge specifically for the transportation. A certificate would be needed if the only service provided is transportation.

The Commission involvement with such air carriers has become very limited and generally there appears to be little problem with the current policy.

Recommendation No. 2

The Statutes and Regulations governing the ATC should be reviewed.

The Commission has taken steps to clarify the regulations and the Legislature in 1980 passed several major revisions to the statutes. Since the audit report provided six specific examples, we will answer in the same format.

1. "Cease and desist authority is needed to stop illegal carriers." The Commission was given authority to issue Stop Orders in 1980 with the passage of Chapter 115 SLA 1980. The Stop Order authority has proven to be very effective for enforcement where clearly illegal activities of a continuing nature is discovered.

2. "A definition of scheduled air carrier and clarification of the definition of an air taxi operator should be provided." The necessary clarification was made by the Legislature with the passage of Chapter 115 SLA 1980 effective January 1, 1981.

3. "Procedural regulations for hearings conducted by the ATC should be adopted." The revised procedural regulations were formally adopted effective April 28, 1982. The revisions have proven quite effective in both speeding up the hearing process and shortening the length of oral hearings.

4. "A clarification of incidental transportation to some other primary business is needed." As stated earlier, the Commission amended 3 AAC 68.010 in 1980. While it could be argued that further definition in the statutes would assist in clarifying such carriage, the problem has generally not been serious for legitimate private carriers. The carriers that have had a problem are those that have in fact been proven to be operating without proper authority under the guise of private carriage.

5. "A statutory amendment is needed to give the Commission the authority to delegate their duty to preside over hearings to a hearing examiner." The use of hearing examiners without the presence of a Commissioner was found acceptable by the Supreme Court. The Court found that the use of hearing examiners violated neither the statutes nor constitutional due process. The case in point is ATC vs. Gandia, Sup. Ct. Op. No. 1964, 602 P2d 402 (1979). Therefore, this matter has been resolved.

6. "Registration fees (air only), weight fees (motor freight and passengers) and application fees for all types of carriers have not been increased for at least nine years." Fees have still not been increased. Such increases would require revision of the statutes which the Commission would support. The only fees that cannot be increased are registration fees for interstate carriers which are fixed by Federal Law.

This recommendation also pointed out that the maximum allowable civil penalty was only \$150 per violation. The Legislature in Chapter 115 SLA 1980 raised the maximum to \$1,000. The Commission has taken the higher maximum into consideration when levying civil penalties.

Recommendation No. 3

The Commission should seek the repeal of the Alaska Ferry Transportation Act.

Chapter 115 SLA 1980 removed ferry transportation from the jurisdiction of the Commission.

Recommendation No. 4

ATC should regulate the economics of the transportation industry as required by the Alaska Statutes.

A. Carriers should be required to submit all pertinent financial data necessary for economic regulation.

The Staff of the Commission now files accusations against carriers who do not file the required annual or quarterly reports. Failure to file reports can lead to either civil penalties or the revocation of the authority.

While the Commission still agrees that the collection of financial information could be of great benefit, the Commission also recognizes that the completion of detailed financial reports can be done only at a cost to the carrier. There is also a cost to the State since such reports would require considerable Staff time in verifying reports, enforcement of filings, completion of data and the dissemination of information. With current staffing, it is not possible to significantly improve the quantity of information gathered. There is a continuing effort to improve the quality of financial data currently received by improving reporting forms and utilizing the programs already in existence to catalogue the information.

B. ATC should audit the Carrier's accounting records to ensure they are prepared in accordance with regulatory accounting requirements and to determine the reasonableness of the financial data.

It has not been possible to significantly improve the survey of carrier's accounting records. While such indepth surveys or audits could be beneficial in determining whether or not the carrier is utilizing good accounting techniques, the fact is that numerous requests for positions to do such work have not been funded.

Further, this recommendation clearly demonstrates the unfortunate situation that exists in both the "78" and "82" audits, which is a continuing attempt to compare the APUC and the ATC. The two agencies deal with two different regulatory schemes. The APUC deals primarily with monopolies which in Alaska generally belong to either a governmental unit or the rate payers. The ATC deals with competitive privately owned businesses. While in both areas there are economic regulations designed to generate adequate rates to maintain the companies, there are within the transportation industries strong market forces at work that directly affect rates and markets. Another major difference is that utilities normally have necessary accounting staffs to maintain a complicated accounting system necessary to satisfy federal lending agencies, federal regulatory agencies, local governmental units, and bonding covenants required for revenue bonds. Transportation companies in Alaska tend to be of a much smaller size and, in many cases, use public accounting firms to maintain their accounts. The greatest difference between the two industries is in their control of their respective markets. The utilities have a fixed number of customers that over periods of time use a predictable amount of their service. On the other hand the transportation industry has little control over customers and certainly no control over the amount of services needed.

C. ATC should establish written basic policies and procedures for analysis of rate changes.

This recommendation was answered in part by the revisions to 3 AAC 69.395 and 3 AAC 68.180 that were effective May 8, 1980.

The major continuing problem in controlling tariffs that would insure a specific rate of return to a carrier, is that in a competitive market place such actions are impossible.

Transportation tariffs are not nearly as stable as utility tariffs for the reasons explained in B above. Stated simply, if one carrier drops its rates for a commodity between points A and B, then all other carriers servicing the same market must match it in short order or give up the freight. In utilities there is generally no alternative.

Recommendation No. 5

Improvement is needed in the enforcement of the ATC statutes and regulations.

A. ATC does not process enforcement actions in a timely manner.

An effort has been made to reduce the processing time for enforcement actions. The biggest problem in significantly reducing the processing time is in preparation of the case for hearing and getting the respondent to hearing. The lack of adequate Staff to handle the volume of work in enforcement has and will continue to cause some delays in processing each phase of the enforcement procedures.

Standard operating procedures have been developed for enforcement and are in use. Further, several memos and instruction sheets have been developed to standardize the enforcement effort.

B. The Commission frequently suspends all or part of the civil penalties assessed for violations.

The Commission still considers the suspension of part of a fine as a valid deterrent in its enforcement of the statutes and regulations. In determining the appropriate civil penalty to be levied in any case, various factors are normally taken into consideration by the Hearing Examiner and the Commission. Among the factors are:

1. revenue received as a result of the violation or violations;
2. duration and number of violations;
3. possibility of emergency circumstances;
4. availability of authorized carriers;

5. extent of respondent's experience in the transportation industry;
6. the quality of evidence submitted as provided in 3 AAC 60.290;
7. previous Commission orders assessing penalties for similar or comparable violations;
8. the nature and severity of the violations; and
9. mitigating circumstances provided by the respondent.

The value of suspending a portion of the penalty is that the suspended portion is a constant reminder to the respondent that new violations will result in not only new penalties but also the automatic levy of the suspension. With the current \$1,000 limit per violation, suspension of several thousands of dollars is a very effective reminder.

C. ATC enforcement staff duplicates the motor safety inspection done by the Department of Public Safety.

There have been several changes in the commercial vehicle safety program since the 1978 audit. Generally, the Commission would still contend that the work being done by enforcement agents at the time of the audit was a worthwhile augmentation of Public Safety's program. However, with the transfer of the scale house personnel and the completion of a federal grant that funded the scale house program, the entire commercial vehicle safety program reverted to the ATC effective March 12, 1983. The existing staff is developing a safety program that will effectively protect the public, the commercial drivers, and the cargo.

The auditor was correct in pointing out that safety activities detract from carrier surveys and investigations. However, the Commission believes the implementation of a safety program designed to identify and remove unsafe vehicles from the highways is of great importance.

Public Safety and local police agencies are still conducting safety inspections based on their police powers, but their program is designed to apprehend violators while a commercial vehicle safety program should concentrate on prevention of violations. Further, with the ATC authority under AS 42.07 and AS 42.10, action can be taken against the carriers that allow unsafe vehicles to be operated.

Recommendation No. 6

Applications should be processed by the ATC in a more timely manner and temporary operating authority should be granted in accordance with Alaska Statutes.

The Commission and the Staff have reduced the processing time of applications. In calendar year 1982 the processing time of non protested applications was less than two months. To further speed the processing of air applications, the Legislature in Chapter 115 SLA 80 provided in AS 02.05.070 that the Commission must get a completed application to hearing within 120 days of receipt or must deny the completed application within 60 days of a hearing if held. Failure to meet these dates results in an automatic grant of authority. To date there have been no automatic grants since the amendment.

The entire question of the grant of temporary authorities is unclear as to the intent of the law. Currently, the Commission has greatly reduced the number of temporaries granted. However, the Commission believes that the very tight definition placed on emergency or temporary authorities by the auditor was not the intent of the statutes. The audit implies that the statute would allow the issuance of a temporary only under emergency circumstances. The Commission disagrees, and believes it has some latitude in granting temporary authorities, especially where no current service exists or when a transfer of ownership takes place. Further, the Air Act gives the Commission the authority to consider the impact of denial of a temporary request on the applicant.

Recommendation No. 7

The Commission and Hearing Examiners should write the formal written decisions (orders) on application before the ATC.

The Staff normally does not prepare orders in cases that have gone to hearing. All such orders are prepared by the presiding Hearings Examiner. If a quorum of Commissioners is not present at the hearing, then the order is termed a Proposed Order and both parties have an opportunity to respond before the final Commission decision is issued.

To further expedite the issuance of orders, an effort has been made to use standard formats, so that drafting time is reduced.

It should be noted that any order written by staff is only a draft and must be approved by at least two Commissioners before issued.

The Commission is still of the opinion that little benefit would be derived by having one Commissioner with a legal background. As a quasi-judicial body, the decisions made must be based on the facts presented and not on the Commissioner's personal opinion as to what happened. Further, a Commissioner that had a legal background still could not represent the Commission in Court, as only the Attorney General's office can represent the State.

To overcome the problem of needing legal advise on matters in the hearing stage, the Commission uses one of the Hearing Examiners, both of whom are members of the Alaska Bar, as presiding officers. Since the Hearing Examiner is present in an official capacity, he can advise the Commission on evidentiary matters, motions, etc., from a legal standpoint. The assigned Assistant Attorney General represents Staff before the Commission at hearings and represents the Commission when rulings are appealed to the Superior Court. Further, the Assistant Attorney General researches legal questions posed by Commissioners and assists in responses to both the Civil Aeronautics Board and the Interstate Commerce Commission.

The need by the Commissioners for legal advice on procedural matters has been reduced by training programs that they have attended. The Commissioners have taken courses at the National Judicial College in Administrative Law Procedures. The courses provided by their institution are attended by persons appointed or elected to the various quasi-judicial boards and commissions throughout the United States. Many states also send judges recently appointed to their various courts to this same college.

Recommendation No. 8

The ethical conduct regulations should be complied with in matters before the ATC.

The Commission and Staff have made a concerted effort to remove any doubt that the ATC is a quasi-judicial agency and as such cannot accept information not correctly presented. Stated simply, most people both within the regulated industries and outside those industries do not understand the distinction between a quasi-judicial agency and the typical

agency in the executive branch of government. Therefore, these people think it totally proper to attempt to convince the ATC Commissioners or the staff as to how they would hope a matter should be handled. While very few of these people would ever dream of calling a judge to discuss a legal matter currently before his bench, to call the ATC is considered okay.

The Commissioners quite frankly are refusing to discuss cases that are in the adjudication process. They will talk with individuals who have general questions about transportation regulation or Commission procedures, but all such conversations are limited to generalities.

Recommendation No. 9

Neither Commissioners nor ATC staff should accept free transportation from any regulated carrier.

Since the incident of August 1978, no free transportation has been accepted by any Commissioner or staff member. Every effort is made to ensure that no one carrier is seemly given preference over another.

Recommendation No. 10

ATC should issue orders in accordance with the Alaska Statute.

The Commission did continue to issue some orders by telegram during the period 1979 to 1981. However, since early 1982 very few authorities, whether for temporary authority or not, have been issued by telegram. In all cases since 1981, a confirming order has been issued whenever a telegram was used.

A more thorough discussion of the ATC's disagreement with this audit recommendation can be found with this same finding in the 1982 audit.

Recommendation No. 11

The Statutory Qualifications for Commissioners of the ATC should require specific areas of expertise.

This matter was resolved by the passage of Chapter 115 SLA 1980 which amended AS 41.07.041. The amended section establishes that each of the three positions will have specific experience in various fields.

Recommendation No. 12

The ATC should give notice, hold open to the public, and maintain complete minutes of the Commissioners' weekly meetings.

The weekly meetings are currently held solely to make decisions in adjudicatory matters and are thus not open to the public as stated in the Response to Recommendation No. 8. The Commission can only listen to testimony if all parties are present so the concept of a weekly public meeting would only increase the possibility of accusation that decisions were made based on ex parte communication.

The specific regulation, 3 AAC 60.470, referred to in the Audit was repealed effective April 20, 1982. All hearings are open to the public and are duly noticed in the ATC Journal as required by AS 44.62.310. If any change to the administrative code is under consideration, notice is published in local newspapers as required.

Recommendation No. 13

An index system should be developed for the final orders issued by the ATC and decisions on appeals from the courts.

The staff and a Hearing Examiner has completed an indexing of all Commission Orders in a legal digest. The project began in 1980 and will be completed by July 1, 1983. The digest will be over 900 pages in length and will be made available to the public. The digest took about six man months of Hearing Examiner's time and about 12 man months of clerical support time.

It is believed that the digest will speed up processing time and possibly reduce hearing time as past decisions will be readily available so that the the same arguments will not have to be presented during each case.

Recommendation No. 14

The Assistant Attorney General and Tariff Analyst positions at Department of Law which are assigned to ATC matters should be placed organizationally and physically within the ATC.

The Assistant Attorney General position is still assigned to the Department of Law. In September of 1982, the incumbent in the position was required to relocate his office back

to the Department of Law's office area in Anchorage. Prior to the move, the attorney had been allowed to work at the Commission's office.

The move has caused some difficulties and does interrupt the work flow especially in the handling of enforcement cases.

The Commission has no idea what happened to the Tariff Specialist position assigned to the Department of Law.

The Commission is still of the opinion that the attorney should at the very least be assigned to physically work at the Commission's office. Further, with the current work load the Commission needs to add either another attorney or a paralegal assistant.

1982 Audit

Recommendation No. 1

The Alaska Transportation Commission should become a section within the Alaska Public Utilities Commission (APUC).

The Commission has prepared several written statements in depth as to its reasons for opposing this recommendation.

The principle reason for the ATC not agreeing with this recommendation is that the ATC and APUC provide economic regulation of two totally different industries. The APUC regulates essentially monopolistic utilities that are generally owned either by cooperatives or local governments. The ATC regulates highly competitive air and service transportation companies that are in private or cooperate ownership. The APUC's attention is primarily concentrated on rate cases while the ATC is primarily involved in determining applicant fitness and enforcement activities.

The work load of both agencies would appear to justify the continuance of the existing structure. In fact as of May 16, 1983, the ATC has opened 262 dockets as compared to 250 in the same time period in 1982 and has issued 341 orders as compared to 233 in 1982. It would appear that to combine the two agencies would place a very heavy work load on the remaining Commissioners. It could very well lead to the same problems that lead to the splitting of the old Public Utilities Commission in 1966. That split was designed to reduce delays and increase service to the regulated industries and created the APUC and the ATC.

Recommendation No. 2

Temporary authority should be granted in accordance with statutes.

The Commission does not agree that temporary authorities are being granted without considering the statutes.

In the past some temporary authorities were granted in what appears to have been an expedited manner. This is no longer the practice. While temporary authorities are still being granted, most are not granted until after publication in the Journal and then by written order. The use of telegrams has been greatly curtailed and restricted to only rare cases where there is a need for expedited service.

If there are known protestants to the application, the Commission will hold a short notice hearing limited to the question of the need for the temporary. In this way all known parties are guaranteed due process and the Commission can hear evidence as to the emergency situation that applicant believes exists.

The Commission is still of the opinion that the statutes provide adequate latitude to allow for the issuance of temporary exemptions. To limit the issuance of temporary exemptions to the narrow parameters suggested in this recommendation could be more of a disservice to both the public and the regulated industry than the granting of such permission.

It is also indicated in this recommendation that the processing time for applications not requiring a hearing was five months. A review by Staff of the 1982 orders issued for all applications that did not require a hearing indicated an average of approximately three months. This average time has been further reduced in 1983 with many applications being processed within 45 days.

Recommendation No. 3

The economic regulatory procedures of ATC should include financial analysis of data submitted by the carrier.

A. Processing of applications should include financial statements and financial data.

All applications are being reviewed by either a tariff specialist or an accounting technician during the initial processing. A review sheet is included in all dockets indicating the financial condition of the applicant. The applicant is contacted by letter if any additional information is needed to complete the evaluation. Failure on the part of the applicant to supply the information may result in rejection of the application as incomplete.

The Staff is considering a new application form that will require the applicant to submit both additional data as well as confirmation of assets and liabilities. However, it now appears that new regulations will have to be published and approved as the confirmation requirement would be an addition to the application process and can only be initiated through regulation.

B. ATC should require supporting documentation of tariff changes for review and analysis.

This recommendation would seem to be based, in part, on the failure of Staff to document its actions. While with only three tariff specialists it would not be possible for the ATC to control and set the rates for 200 common motor carriers and 225 air carriers, the Staff has rejected many tariff filings that do not meet filing requirements and that might be discriminatory toward selected shippers.

The Staff is now requiring rate justification to be submitted for some motor tariff filings and all air tariff filings. The motor carriers have indicated some opposition to the requirement to justify all rate increases. In a recent hearing before the Commission the carriers indicated that a requirement to submit cost justification for tariff adjustments is both costly and very time consuming. Further, in many cases the changes are only for a small section of their tariff and are based on competition rather than specific cost for the operation.

The Staff expects that the final determination of how much cost data will be required for tariff filings will have to be reduced through the promulgation of regulation. With the reduction of filing requirements by the federal agencies, ICC and CAB, there has developed a dual system wherein the federal filing requirements are more lenient than the State requirements.

C. Annual and quarterly financial reports should be analyzed.

The question of what is needed on annual and quarterly reports is most difficult to answer. The carriers generally resent having to file any reports, contending that reports are expensive to prepare and are open to the public, i.e., their competitors. The Staff is of the opinion that some carrier information is needed and can only be supplied by the carrier.

The ATC generally agrees that more financial reviews could be done. However, it should be noted that to do so will require more funding to cover support cost such as data entry, programming, computer time and support equipment. Possibly of even greater importance in considering

more review is the impact of its collection on the carriers as any increase in reporting requirements will directly impact them in increased cost of preparing the input documentation.

It should be noted that many jurisdictions are reducing reporting requirements as part of deregulation.

Recommendation No. 4

Complaints and accusations should be investigated and processed in a timely manner and accurate records of the complaint resolution process should be maintained.

Steps have been taken to improve the enforcement effort and to ensure that complaints, citations, and accusations are processed in as timely manner as possible. Part of the problem has been resolved by a better record keeping system for the agents and the assignment of specific cases to an agent. The objective is to have each agent be responsible for a case through the hearing process.

To further reduce delays the Hearing Examiners are closely monitoring the calendar to ensure that cases simply do not die because of failure to complete the hearing process.

While every effort is being made to increase the productivity of the enforcement agents, there is no way to ensure that cases are not going to extend over what appears to be an unusual length of time. The effort to collect adequate evidence takes time especially when the violators seldom cooperate. Further, the quasi-judicial process takes time as every reasonable effort must be made to guarantee the accused of his due process rights.

Recommendation No. 5

The number of field surveys performed each year should be increased and should include a limited financial compliance audit of accounting records.

The number of field surveys for both surface and air carriers has been increased. A new motor carrier survey format has been of assistance in discovering violations especially in the area of drivers' records and hauling unauthorized loads.

Normally, the survey team conducting surface surveys includes a tariff specialist who reviews the bills of lading against the posted tariff. Such surveys normally take at least two days and one survey took about two weeks. If an accusation results from the survey, several more weeks of Staff time is needed to finalize the investigation and prepare for the hearing.

It is Staff's opinion that surveys are a very important element in the enforcement of economic regulation. However, there is a direct conflict for time between the recommendation to promptly resolve all complaints and to conduct more indepth surveys. To do both would require more Staff.

Recommendation No. 6

The Commissioners and Hearing Examiners should write all the formal written decisions (orders) on docketed matters before the ATC.

The ATC does not disagree with this recommendation. However, it should be noted that the Hearing Examiners do write all of the orders generated by hearings over which they preside.

Since January 1, 1983, there have been 41 hearings in Anchorage and in 25 of them at least a quorum of Commissioners have been present. By attending the hearings, the Commissioners can render a decision without the interim step of a proposed order. This both shortens the time between hearings and final orders and speeds up the time necessary to grant an authority if applicant prevails. A side benefit is that in some cases it reduces the cost of all parties as the necessity of submitting legal briefs is reduced.

Recommendation No. 7

ATC should establish procedures for the accountability and collection of civil penalties.

Since this audit a greater effort is being made to ensure the collection of civil penalties is being made. Currently, there is a systematic call-up of overdue fines in order that reminder letters can be sent. If such letters prove unsuccessful, several alternatives are used.

The first is legal action either through the Department of Law for cases over \$2,000 or Small Claims for under \$2,000. If a certificated carrier is involved, a show cause order is issued requiring payment or revocation will be ordered. All three efforts have produced positive results.

Recommendation No. 8

Alaska Statutes should be amended to exempt dump truck operators from certification and economic regulation.

The Commission continues to concur that dump truck operation should be exempt from economic regulation and regulated only as to the safety of operation as commercial vehicles and to the filing of adequate insurance to protect the public.

The ATC does take exception to the comment that the Commission has "essentially exempted dump truck operation from economic regulation." What the Commission has done is to recognize the nature of the dump truck industry and to effect regulation with the least burden possible on applicants and permitted carriers while at the same time adhering to State law.

Recommendation No. 9

Regulation should be promulgated in a timely manner.

Of the four proposed regulations mentioned in the audit, two have been approved and published in the Administrative Code. The proposed regulation on tariffs and insurance is being rewritten and will need to be noticed for hearing. The reason in both cases is that the original proposed regulations are no longer applicable to current situations.

There is no question that revised regulations should not take two years, but in some cases it is better for the revisions to die under public comment than for an agency to push them through and create unworkable situations.

A major review of the regulations is needed, but would require the service of an additional attorney from the Department of Law. While the Staff can draft changes, the services of an attorney are required prior to and during the hearing process since all of ATC's regulations are quasi-judicial in nature and actions taken are directly appealable to the Superior Courts. Therefore, the ATC's regulations

must be reviewed not only from the basis of applicable State law, but also based on current State and Federal case law since in many cases interstate commerce is affected.

Recommendation No. 10

ATC should seek legislation to increase fees.

The ATC supports the concept of increased fees and further believes that language should be included in AS 42.07 to allow for the assessment of costs to participants similar to the language appearing in AS 42.05.651.

NEWCOMER TILL



Alaska State Legislature

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Senator J. Kerttula
FROM: Senator Joe Josephson
DATE: May 11, 1983
RE: SSSB 174 Preferential Hire

Dear Mr. President:

While support for the substance of SSSB 174 appears virtually unanimous among the public and the legislators, some concerns regarding the fiscal note have emerged.

The Department of Labor has asked for six (6) new employees to enforce the provisions of SSSB 174 should it become law. The Department of Labor has very conservatively estimated wage savings to Alaskans in excess of 3.4 million dollars from the level of enforcement this funding would permit. Given the very conservative nature of Department of Labor's estimates this equals a greater than ten to one return to the citizens of Alaska for each State dollar.

The Senate Finance Committee has already included funding for four of the positions requested by the SSSB 174 fiscal vote as a special Alaska Hire unit within the Department of Labor. I believe we can anticipate a more active enforcement of Alaska hire by the new administration. I believe this fact, combined with the craft by craft requirement of SSSB 174, justifies the addition of all the requested six employees.

I would request your guidance and assistance as to how to best formulate the fiscal note to clarify this situation, guarantee adequate funding of Alaska Hire enforcement, and promote the passage of this legislation.

Joe Josephson
Senator Joe Josephson

JPJ/dd/cme

cc: Senator Sackett
Commissioner Robinson
Peter McDowell, Director OMB



Alaska State Legislature

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Senators Keittula, Eliason, Mulcahy, Bennett, Sackett, and Rodey

FROM: Senator Josephson

DATE: May 5, 1983

RE: SS SB 174 Preferential Hire

Dear Colleague:

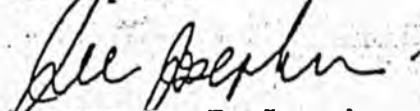
Over the past three weeks, I have received numerous letters, telephone calls and POM's concerning this legislation. You and I, and the people, want to strengthen the employment position of Alaskans in the face of outside employers using outside labor on local projects.

SB 174 was fashioned after an executive order approved in White v. Mass. Council of Constr. Emp., the United States Supreme court decision announced on February 28, 1983. The Court upheld a City of Boston executive order which required at least 50% bona fide resident hire on "any construction project funded in whole or in part by City funds, or funds which... the City expends or administers, and to which the city is signatory." The Court, in the face of a federal constitution Commerce Clause challenge, held that "the application of the mayor's executive order to the contracts in question did not violate the Commerce Clause...".

A recent Washington Supreme Court decision, has cast legal doubt about the validity of AS 36.10 as presently constituted. SB 174 takes advantage of the White decision and puts AS 36.10 in a form that should create a constitutionally permissible employment preference statute.

Subsection (a) addresses employment preference in municipalities only, thus falling well within the boundaries established in White, and avoiding the Commerce Clause challenge.

Subsection (b) addresses employment preference on construction projects partly or wholly funded by state money. This subsection requires that 95 per cent of all workers on such projects be Alaska residents. It also requires that each craft of workers be composed of 95% Alaskan residents. This craft by craft provision will insure that Alaskans will be offered jobs in all craft areas and prevent the importation of a particular craft of workers at the expense of Alaskan residents.


Senator Joe P. Josephson

I. REQUEST

Bill/Resolution No. SS for SB 174
 Title: "...employment preference..."
 Sponsor: Senator Josephson
 Requestor: Senate Labor & Commerce

II. FISCAL DETAIL

Agency Affected: labor
 Program Category Affected: Worker Protection
 BRU, Program of Subprogram(s) Affected: Labor Standards & Safety, Wage & Hour

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		72.3	76.6	81.2	86.1	91.3
200 TRAVEL		0				
300 CONTRACTUAL		21.0	22.3	23.6	25.0	26.5
400 COMMODITIES		1.0	1.1	1.2	1.3	1.4
500 EQUIPMENT		3.0	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		97.3	100.0	106.0	112.4	119.2
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		97.3	100.0	106.0	112.4	119.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

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

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Donald R. Wilson
 Division: Labor Standards and Safety

Phone: 465-4870
 Date: May 6, 1983

Approved by Commissioner: Jim Robison
 Department: Labor

Date: May 6, 1983

LEG:A:48

Distribution:

- Original to Legislative Finance
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- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

TITLE: "An Act relating to employment preference."

AGENCY AFFECTED: Department of Labor

Page 2

Under this bill the Department of Labor will be required to closely scrutinize certified payrolls to assure that residents of an area, which has been designated as an area impacted by economic disaster, are given first preference for employment, where they are available and qualified, so that the economic effects of alleviating the disaster will be maximized. If resident labor is not available, the contractor will inform the department of the number of additional workers needed, the positions to be filled, and the efforts made at recruitment in the area. The department will investigate, and if it is determined that a good faith effort has been made by the contractor, will authorize the recruitment of qualified and available workers from areas adjoining the area impacted by such economic disaster; then followed by residents of the region, and then by residents of the State at large. This expansion of auditing and investigative service will be significant and labor intensive.

Staffing would provide a technician for full-time resident audits, and a full-time investigator in the office to review audit results, make investigations of violations uncovered by the audits, and investigate complaints from sources outside the agency. The investigator would travel throughout the state to provide a quick reaction capability to remote job sites where a majority of the violations occur.

Additional workload results from the requirement that residency is based on worker hours on a craft-by-craft basis.

Assumptions:

Effective date of July 1, 1983

Inflation rate of 6% per annum

Equipment Costs of \$9,000 is a one time item

Inclusion of additional funding (\$251.8 in the Senate Budget) in the final appropriations bill.

The original fiscal note submitted for Sponsor Substitute for Senate Bill 174 requested \$349.0 (6 positions). Of this amount, \$251.8 (4 positions) has been included in the Senate Budget for the Department. This fiscal note is the difference between the original amount requested and the amount included in the Senate Budget 97.3 (2 positions).

LEG:A:48

1.	POSITION TITLE Wage and Hour Technician I			RANGE/STEP 12A	BARG. UNIT GGI	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER SS for SB174	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT 99	LEG.	
3.	CONTINUATION LEVEL	ADDITION	XX	JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES'								
5.	Salary		23,688						
6.	Benefits		3,759						
7.	Supplemental Benefits		1,452						
8.	Fixed Benefits		2,880						
9.	TOTAL PERSONAL SERVICES	01	31,779						
10.	Travel	02	-0-						
11.	Contractual	03	11,520						
12.	Commodities	04	500						
13.	Equipment	05	1,500						
14.	Other								
15.	TOTAL COST		45,299						
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
18.	100	General Funds 1004		45,299					
19.		I-A Receipts 1005							
20.		Program Receipts 1028							
21.		Other							
FOR B&M USE ONLY									
4A KEY NUMBER _____									

This position will be required to audit certified payrolls to ascertain if contractors on public projects are employing local residents; if good faith efforts have been made to hire local residents; and further if labor from adjacent areas is being utilized when local skilled labor is not available.

Contractual service includes \$3,120 for indirect support services, and \$3,400 for rent. All other costs are normal operating expenses.

The \$1,500 in the equipment line item is to purchase basic office equipment.

13 REQUEST FOR
NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

FY 84

Page 1 of 2

Revised Date

LEG:A:36

1.	POSITION TITLE Wage and Hour Investigator I			RANGE/STEP 16A	BARG. UNIT GGU	FORM 12	PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER SS for SB174	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT 99	LEG.		

3.	CONTINUATION LEVEL	ADDITION	X
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	30,888	
6.	Benefits	4,902	
7.	Supplemental Benefits	1,894	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES	01	40,564
10.	Travel	02	0
11.	Contractual	03	9,468
12.	Commodities	04	500
13.	Equipment	05	1,500
14.	Other		
15.	TOTAL COST		52,032

JUSTIFICATION

This position would provide professional review of the audit trail for resident hire; make investigations of suspected non-compliance and enforce the required quotas of resident to non-resident. This position would also provide quick reaction response capability to remote areas to apprehend violators while the project is still in process and funds are available for retention by the contacting agency that would have been paid to displaced residents.

Contractual services include \$4,068 for indirect support services and \$3,400 for rent and \$2,000 for basic operating cost.

The position will require \$1,500 to purchase basic office equipment.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	52,032
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

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4A KEY NUMBER _____

3 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Public Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

FY 84

Page 2 of 2

Revised Date _____

I. REQUEST

Bill/Resolution No.: SSSB 174
 Title: Employ. Preference, State Residents
 Sponsor: Josephson, Kerttula, et al.
 Requestor: _____

II. FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

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

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Guy Stringham *Guy Stringham*
 Division: Labor Relations

Phone: 465-4403
 Date: April 28, 1982

Approved by Commissioner: Lisa Rudd *L. A.*
 Department: ADMINISTRATION *11/2/82*

Date: 5/4/82

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3/8/83

Bill No. Sponsor Substitute for Senate Bill 174

Date May 4, 1983

Title "An Act relating to employment preferences for state residents; and providing for an effective date."

Contact: Judy Knight
465-2700

Bob Bacolas
465-4780

During the years when the Trans-Alaska Pipeline was being built, the department maintained an effective resident hire program, both within the construction of the pipeline and public construction contracts. A resident hire unit for enforcement of Title 36 was located within the Wage and Hour Administration, which was staffed with 12 employees, eight professional and four clerical support. Their activities were supportive of the activities of the three staff members assigned to public construction enforcement. Many newcomers finding it difficult to obtain oilfield work turned to traditional construction activities for employment. The resident requirements for "pipeline" employment were substantially more stringent than those for public construction. The result was that employers hiring for public construction and the Title 36 enforcement unit could rely on the activities of the "pipeline" enforcement unit for much of the leg-work required to verify residency. It was a simple matter to check for the "resident card" required under Title 38.


In 1978 the Supreme Court in the matter of Hicklin v. Orbeck, overturned the residency aspect of Title 38. Subsequently, in the budget process all twelve "pipeline" positions were deleted and the entire staff was laid off. Consequently, since 1978 the department has not had any positions funded for enforcement of resident hire.

The Department recently completed a survey to determine the wages paid to non-residents that should have been paid to residents on public construction. Based on this survey we projected the figures for the entire fiscal year ending June 30, 1983. To arrive at the dollar value of wages lost by displaced residents we used a 40 hour work week and a base level wage, plus benefits, for the lowest paid job class subject to our wage surveys. Therefore, the actual dollar value of wages lost to residents in FY 83 would be more than the figure estimated from certified payrolls.

Number of displaced residents:	3767
Estimated value of lost wages:	\$3,394,160.00

The Department supports this legislation which addresses resident preference in light of recent court decisions. This bill, coupled with the necessary staff resources to enforce resident preference, will do much to increase employment opportunities for Alaskan residents.

Approved:


Commissioner

POSITION PAPER/Department of Labor

STATE OF ALASKA
FISCAL NOTE

Revision Date Original, 1983

I. REQUEST

Bill/Resolution No.: SS for SB 174
 Title: "An Act relating to employment..."
 Sponsor: Senator Josephson
 Requestor: Senate Labor & Commerce

II. FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Worker Protection
 BRU, Program of Subprogram(s) Affected: Wage & Hour

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		217.0	230.0	243.8	258.4	273.9
200 TRAVEL		48.0	50.9	54.0	57.2	60.6
300 CONTRACTUAL		72.0	76.3	80.9	85.8	90.9
400 COMMODITIES		3.0	3.2	3.4	3.6	3.8
500 EQUIPMENT		9.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		349.0	360.4	382.1	405.0	429.2
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		349.0	360.4	382.1	405.0	429.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		6	6	6	6	6
PART-TIME						
TEMPORARY						

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

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Tom Wilson Phone 465-4870
 Division: Labor Standards & Safety Date: 5/12/83
 Approved by Commissioner: Jim Robison Date: _____
 Department: Labor

LEG:A:47

Distribution:

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Detail Analysis Senate Bill 174

Under this bill, the Department of Labor will be required to closely scrutinize certified payrolls to assure that residents of an area, which has been designated as an area impacted by economic disaster, are given first preference for employment, where they are available and qualified, so that the economic effects of alleviating the disaster will be maximized. If resident labor is not available, the contractor will inform the department of the number of additional workers needed, the positions to be filled, and the efforts made at recruitment in the area. The department will investigate and, if it is determined that a good-faith effort has been made by the contractor, will authorize the recruitment of qualified and available workers from areas adjoining the area impacted by such economic disaster; then followed by residents of the region; and then by residents of the State at large. This expansion of auditing and investigative service will be significant and labor intensive.

Staffing would provide a technician in each regional office for full-time resident audits. The staffing would also provide a full-time investigator in each office to review audit results, make investigations of violations uncovered by the audits, and investigate complaints from sources outside the agency. The investigators would have a travel budget which provides a quick reaction capability to remote job sites where a majority of the violations occur.

Assumptions:

Effective date of July 1, 1983
Inflation rate of 6 percent per annum
Equipment costs of \$9,000 is a one-time item

1.	POSITION TITLE Wage and Hour Technician I			RANGE/STEP 12A	BARG. UNIT GGU	FORM #1	PAGE/LINE	COV.	(APPROV.)	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER SSforSB 174	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 99	LEG.		

3.	CONTINUATION LEVEL	ADDITION	XXX
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	23,688	
6.	Benefits	3,759	
7.	Supplemental Benefits	1,452	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES	01	31,779
10.	Travel	02	-0-
11.	Contractual	03	11,520
12.	Commodities	04	500
13.	Equipment	05	1,500
14.	Other		
15.	TOTAL COST		45,299

JUSTIFICATION

This position will be required to audit certified payrolls to ascertain if contractors on public projects are employing local residents; if good faith efforts have been made to hire local residents; and further if labor from adjacent areas is being utilized when local skilled labor is not available.

Contractual service includes \$3,120 for indirect support services, and \$3,400 for rent. All other costs are normal operating expences.

The \$1,500 in the equipment line item is to purchase basic office equipment.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.	100	General Funds 1004	45,299
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

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4A KEY NUMBER _____

13 REQUEST FOR
NEW POSITION

AGENCY Labor
PROGRAM Worker Protection
BRU Labor Standards and Safety
COMPONENT Wage and Hour

FY 84

Page 1 of 6
Revised Date _____

1.	POSITION TITLE Wage and Hour Technician I				RANGE/STEP 12A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER SSforSB 174	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT 99	LEG.		

3.	CONTINUATION LEVEL	ADDITION	XX
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	23,688	
6.	Benefits	3,759	
7.	Supplemental Benefits	1,452	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES	01	31,779
10.	Travel	02	-0-
11.	Contractual	03	11,520
12.	Commodities	04	500
13.	Equipment	05	1,500
14.	Other		
15.	TOTAL COST		45,299

JUSTIFICATION

This position will be required to audit certified payrolls to ascertain if contractors on public projects are employing local residents; if good faith efforts have been made to hire local residents; and further if labor from adjacent areas is being utilized when local skilled labor is not available.

Contractual service includes \$3,120 for indirect support services, and \$3,400 for rent. All other costs are normal operating expences.

The \$1,500 in the equipment line item is to purchase basic office equipment.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.	100	General Funds 1004	45,299
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

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3 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

Page 2 of 6

Revised Date _____

FY 84

1.	POSITION TITLE Wage and Hour Technician I				RANGE/STEP 12A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.		
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBR SSforSB 174	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 99	LEG.				
3.	CONTINUATION LEVEL				JUSTIFICATION							
4.	TYPE OF EXPENDITURE				<p>This position will be required to audit certified payrolls to ascertain if contractors on public projects are employing local residents; if good faith efforts have been made to hire local residents; and further if labor from adjacent areas is being utilized when local skilled labor is not available.</p> <p>Contractual service includes \$3,120 for indirect support services, and \$3,400 for rent. All other costs are normal operating expences.</p> <p>The \$1,500 in the equipment line item is to purchase basic office equipment.</p>							
	1		2								3	
	PERSONAL SERVICES*											
5.	Salary		23,688									
6.	Benefits		3,759									
7.	Supplemental Benefits		1,452									
8.	Fixed Benefits		2,880									
9.	TOTAL PERSONAL SFRVICES		01	31,779								
10.	Travel		02	-0-								
11.	Contractual		03	11,520								
12.	Commodities		04	500								
13.	Equipment		05	1,500								
14.	Other											
15.	TOTAL COST			45,299								
	RECEIPT CODE	FUNDING SOURCE										
16.		Federal Receipts 1002										
17.		G.F. Match 1003										
18.	100	General Funds 1004			45,299							
19.		I-A Receipts 1005										
20.		Program Receipts 1028										
21.		Other										
FOR B&M USE ONLY												
4A KEY NUMBER _____												

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

FY 84

13 REQUEST FOR
NEW POSITION

Page 3 of 5
Revised Date _____

1.	POSITION TITLE Wage and Hour Investigator I			RANGE/STEP 16A	BARG. UNIT GGU	FORM 12 PAGE/LINE - 8	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER SSforSB 174	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 99	LIC.	

3.	CONTINUATION LEVEL	ADDITION		JUSTIFICATION
4.	TYPE OF EXPENDITURE		AMOUNT	
	1	2	3	
	PERSONAL SERVICES			
5.	Salary	30,883		
6.	Benefits	4,902		
7.	Supplemental Benefits	1,894		
8.	Fixed Benefits	2,880		
9.	TOTAL PERSONAL SERVICES	01	40,564	
10.	Travel	02	12,000	
11.	Contractual	03	12,468	
12.	Commodities	04	500	
13.	Equipment	05	1,500	
14.	Other			
15.	TOTAL COST		67,032	

This position would provide professional review of the audit trail for resident hire; make investigations of suspected non-compliance and enforce the required quotas of resident to non-resident. This position would also provide quick reaction response capability to remote areas to apprehend violators while the project is still in process and funds are available for retention by the contracting agency that would have been paid to displaced residents.

Contractual services includes \$4,068 for indirect support services and \$3,400 for rent and \$5,000 for basic operating cost.

The position will require \$1,500 to purchase basic office equipment.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Hatch 1003	
18.		General Funds 1004	67,032
19.		I-A Receipts 1005	
20.		Program Receipts 1020	
21.		Other	

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4A KEY NUMBER _____

AGENCY Labor
PROGRAM Public Protection
BRU Labor Standards and Safety
COMPONENT Wage and Hour

13 REQUEST FOR NEW POSITION

FY 84

Page 4 of 6
Revised Date _____

POSITION TITLE
Wage and Hour Investigator I

RANGE/STEP
16A

BARG. UNIT
GGU

FORM 12 PAGE/LINE

GOV. APPROV. DISAP.

TYPE OF POSITION
PFT

STAFF MONTHS
12

RP NUMBER
SS for SB 174

PCN NUMBER

BRU PRIORITY

LOCATION
Anchorage

ELECTION DISTRICT
99

LEG.

CONTINUATION LEVEL ADDITION

JUSTIFICATION

TYPE OF EXPENDITURE		AMOUNT
1	2	3
PERSONAL SERVICES		
Salary	30,888	
Benefits	4,902	
Supplemental Benefits	1,894	
Fixed Benefits	2,880	
TOTAL PERSONAL SERVICES		01 40,564
Travel	02	18,000
Contractual	03	12,468
Commodities	04	500
Equipment	05	1,500
Other		
TOTAL COST		73,032

This position would provide professional review of the audit trail for resident hire; make investigations of suspected non-compliance and enforce the required quotas of resident to non-resident. This position would also provide quick reaction response capability to remote areas to apprehend violators while the project is still in process and funds are available for retention by the contracting agency that would have been paid to displaced residents.

Contractual services includes \$4,068 for indirect support services and \$3,400 for rent and \$5,000 for basic operating cost.

The position will require \$1,500 to purchase basic office equipment.

RECEIPT CODE	FUNDING SOURCE	AMOUNT
	Federal Receipts 1002	
	G.F. Match 1003	
	General Funds 1004	73,032
	I-A Receipts 1005	
	Program Receipts 1028	
	Other	

FOR USE ONLY
KEY NUMBER

AGENCY Labor

PROGRAM Public Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

QUEST FOR
NEW POSITION

Page 6 of 6

FY 84

TO: Senator Josephson
FROM: H.M. Lancaster II
DATE: March 22, 1983

RE: Senate bill 174--Alaska Hire Preference Law

The current preferential hire law facially discriminates against non-residents in public works employment. Residency, as applied in AS 36.010.100, is based upon one's domicile which is defined in AS 36.95.010(5). Simple residency requirements are analyzed under the Privileges and Immunities Clause of the U.S. Constitution, Article IV, sec. 2.

Not all discrimination under the clause is invalid. Toomer v. Witsell, 334 U.S. 385, 396 (1948). However, the discrimination must be motivated by an independent and valid state purpose, and the clause "does not bar discrimination beyond the mere fact that they are citizens of other states." Id. To demonstrate a substantial relationship between a valid state purpose and the discrimination at issue, the state must show that the "noncitizens constitute a particular source of evil at which the statute is aimed." Toomer, at 398; Hicklin v. Orbeck, 437 U.S. 518, 526 (1978). The Privileges and Immunities Clause ensures that this retained sovereignty will not render an individual an alien within his own nation. Paul v. Virginia, 8 Wall 168, 180 (1869).

States, do however, routinely act in capacities other than as a sovereign. In Hughes v. Alexandria Scrap Corp., 426 U.S. 794 (1976) and in Reeves Inc. v. Stake, 447 U.S. 429 (1980), the Court held that state and local governments, in the face of a Commerce Clause challenge, may participate in the market place and exercise the right to favor its own citizens over others.

The propriety of the principal of AS 36.010.100 has recently been tested in Labors Local Union No. 374 v. Felton Construction, 654 P2d. 67(Washington 1982). The Court decided the threshold inquiry of whether the interest of preferential hire subject to state legislation is a privilege or immunity within the meaning of the U.S. Constitution, Article IV, sec. 2. In the spring of 1980, the City of Aberdeen awarded a sanitary sewer project to the lowest bidder, the Felton Construction Company, a Montana corporation. The project was funded by 25 percent

state and local funds and 75 percent federal funds. Appellant sued Felton and the city alleging that Appellees had not employed the statutorily required percentage of Washington residents on the city sewer project.

The Washington court in its analysis stated the following rationale for discharging the state's preferential hire law:

- (1) no valid independent reason shown for discriminating against nonresidents
- (2) nothing was shown to indicate that noncitizens constituted a peculiar source of evil at which the statute was aimed.
- (3) no reasonable relationship between the danger represented by non citizens, as a class, and the discrimination practiced upon them.

The Court cited Baldwin v. Fish & Game Comm'n, 436 U.S. 371, 383 (1978) for the proposition that the extent to which the privileges and immunities clause protects a citizen's right to be placed on the same footing with citizens of other states so far as the advantages resulting from citizenship in the States are concerned, those rights are fundamental. The right to pursue a livelihood in a State other than one's own is a right that is protected by the Clause and points to those interests basic to the maintenance or wellbeing of the Union.

The Court analyzed the motive of the State and declared that "While the State's proprietary role would not exempt it from privileges and immunities scrutiny, it might justify an otherwise illegitimate legislative purpose of seeking to foster state economic welfare." Felton, at p. 70. The State failed to demonstrate a valid state interest. Secondly, "absent an indentified peculiar evil" stated the Court, "it is difficult to determine if the statute is closely related to eliminating the evil non-residents present."

The Court did not dispute the proprietary interest of the State. The project was a public works effort involving state tax dollars. However, the Court found that the statute was not limited to the ownership rights of the State. It specifically placed limitations on private contractors and their subcontractors. And in doing so the Court found

inappropriate the the hardship created by the statute because it affected private employers who had no direct dealings with the state. Felton, at p. 71.

It is at this juncture where the current Alaska employment preference law is infirm. It applies to "... any other retention of services necessary to complete any given project,". That language carries with it the prohibition elicited in Hicklin, "that an attempt to force virtually business that benefits in some way from the economic ripple effect... biases their employment practices in favor of the State's residents." at p. 532. The current statute is probably too broad in its application.

The viability of SB 174 rests upon the White Case. The court did not reach the Privileges and Immunities question. (NOTE: see the March 9, 1983 memo from Billy Berrier). However, the Court does quote the prohibition of Hicklin as to the broadness of applicability, and hints that a more narrowly drawn means of hiring local workers with a statement of local economic need may pass the test. The state as a market participant may be afforded the privileges of other private enterprises in the execution of its policy with its own resources.

S

B

182

TO: Senator Eliason, Chairman
Senate Labor & Commerce

FROM: Senator Josephson

DATE: April 5, 1983

RE: SENATE BILL 132 "An act relating to elevator safety standards."

Mr. Chairman and members of the committee, Senate Bill 182 is before you today as another of those concerns to which we legislators must pay close attention. It is a house cleaning measure.

Every three years, the American Society of Mechanical Engineers revises and adopts the safety code for installation and operation of elevators, escalators, dumb waiters, and moving sidewalks, recognizing the most recent technology in the field. The 1981 code described in this bill is the most recent effort in this state to meet those standards.

Adoption of the 1981 Elevator Safety Code would bring Alaska's minimum standards into conformity with the Basic Building Code, the National Building code, the Standard Building Code, and the Uniform protective devices, alteration, repairs, and/or replacements. Other important features which are incorporated in the code are those regarding venting, as well as the operation of elevators under fire or other emergency conditions. It adopts the current National Safety Practice's inspector's manual as the guide for Department of Labor elevator inspectors.

The bill further permits municipalities to adopt their own standards for safety as long as the minimum standards do not conflict with minimum state standards. Currently, the Municipality of Anchorage has adopted an elevator code and performs inspections within its jurisdiction.

The bill has no fiscal impact.

Bill No. Senate Bill 182

Date March 31, 1983.

Title "An Act relating to elevator safety standards."

Contact: Judy Knight
465-2700
Bob Bacolas
465-4870

Every three years, the American Society of Mechanical Engineers revises the safety code for installation and operation of elevators, escalators, dumbwaiters and moving sidewalks to incorporate technological advances. The 1981 code described in this bill is the most recent effort in this regard. The 1978 code presently in effect for the State of Alaska is, therefore, outdated and will not be reprinted by or otherwise be available from the American Society of Mechanical Engineers.

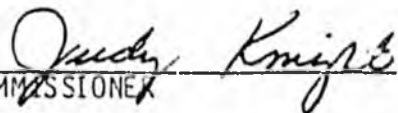
Adoption of the 1981 Elevator Safety Code would bring Alaska's minimum standards into conformity with the Basic Building Code, the National Building Code, the Standard Building Code, and the Uniform Building Code which are commonly accepted and used by industry as minimum standards. These codes are also commonly adopted by political subdivisions as the minimum standards enforced under their building inspection programs.

This bill also provides that municipalities may adopt and enforce their own elevator safety standards as long as the standards are at least as effective as the state standards. This would permit municipalities to extend their self-governing powers to this aspect of public safety if they wished. The Municipality of Anchorage presently has an elevator inspection program and conducts inspections in its jurisdiction.

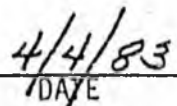
The 1981 elevator safety code addresses the emergency power source provisions set out in AS 18.60.810. Repeal of this section as proposed in Section 5 of the bill is, therefore, appropriate."

The Department of Labor supports passage of this bill. It would not have any fiscal impact.

APPROVED:



COMMISSIONER



DATE

POSITION PAPER/Department of Labor

STATE OF ALASKA
FISCAL NOTE

Revision Date Original, 1983

I. REQUEST

Bill/Resolution No.: Senate Bill 182
 Title: "...levator safety standards..."
 Sponsor: Senator Josephson
 Requestor: Labor and Commerce

II. FISCAL DETAIL

Agency Affected Labor
 Program Category Affected Worker Protection
 BRU, Program of Subprogram(s) Affected:
Labor Standards and Safety

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: ^{PK} Robert J. Bacolas, Sr. *R. Bacolas* Phone 465-4870
 Division: Labor Standards and Safety Date: March 23, 1983

Approved by Commissioner: Jim Robison *Jim Robison* Date: March 23, 1983
 Department: Labor

LEG:A:29

Distribution:

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

3/8/83

1. Number of operational elevators in the state:

City of Anchorage	425
Rest of State	<u>461</u>
Total	886

2. Number of pending elevator installations (anticipated they will be installed by July 1):

City of Anchorage	30
Rest of State	<u>10</u>
Total	40

3. Number of elevator inspections:

July 1, 1982 - April 1, 1983 - State - 177
October 1, 1982 - April 1, 1983 - City of Anchorage - 196

4. Number of elevators overdue for reinspection:

State - 131 (longest was due for inspection in July 1982)
City of Anchorage - 25

The State has no backlog in new installation inspections.

5. Number of new elevator installations/inspections:

State - July 1, 1982 - April 1, 1983 - 23
City of Anchorage - October 1, 1982 - April 1, 1983 - 56

6. The problem with the elevator in the Hunt Building in Anchorage was caused by a blown fuse. The telephone system in the elevator was working but the answering service was not able to get ahold of the service people for 3 hours. The fire department stood by until the service people arrived.

Collateral references. — 26 Am. Jur. 2d, Elevators and Escalators, §§ 1-13.

39A C.J.S., Health and Environment, §§ 28-32.

What is "passenger elevator" within safety statute or regulation. 77 ALR2d 477.

Liability of owner or operator for injury caused by door of automatic passenger elevator. 63 ALR3d 893.

Liability of installer or maintenance company for injury caused by failure of automatic elevator to level at floor. 63 ALR3d 996.

Liability for injury caused by fall of person into shaft, or by abrupt drop, sudden movement, or stopping between floors, of automatic passenger elevator. 64 ALR3d 950.

Liability of installer or maintenance company for injury caused by door of automatic passenger elevator. 64 ALR3d 1005.

Liability of owner or operator for injury caused by failure of automatic elevator to level at floor. 64 ALR3d 1020.

Sec. 18.60.800. Elevator safety standards. (a) The 1978 edition of the American National Standards Institute Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks published by the American Society of Mechanical Engineers is adopted as the minimum elevator safety code in the state.

(b) The Department of Labor shall

(1) adopt or change regulations to carry out the provisions of AS 18.60.800 — 18.60.820;

(2) inspect and certify elevators to meet the safety requirements;

(3) establish, by regulation, fees for inspections performed under AS 18.60.800 — 18.60.820; and

(4) maintain a record of all inspections performed and of all inspection fees collected.

(c) Inspections of elevators by the department shall be performed in accordance with the procedures set out in the American National Standards Institute's Practice (Inspector's Manual — ANSI 17.2), as approved May 29, 1973.

(d) In AS 18.60.800 — 18.60.820, "elevator" includes elevators, dumbwaiters, escalators and moving walks. (§ 1 ch 44 SLA 1976; am § 1 ch 20 SLA 1979)

Effect of amendments. — The 1979 amendment, in subsection (a), substituted "1978 edition of the American National Standards Institute Safety Code" for "Department of Labor shall adopt the 1971 edition of the American National Stan-

dard Safety Code" and "elevator safety code in" for "elevator safety standards of" and inserted "is adopted"; in subsection (b), deleted "and" from the end of paragraph (1) and added paragraphs (3) and (4); and added subsections (c) and (d).

Sec. 18.60.810. Emergency power source. All elevators which do not have an alternate power source shall be equipped with an emergency power source which will produce sufficient power to provide lights inside the elevator and a ringing alarm which can be heard in the building for five hours. (§ 1 ch 44 SLA 1976)

Sec. Labor each v. 15 day notice of violation

Section 822. Sn

Colla Health

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Cross on clai 09.65.13

Section 10. Cer 20. App i 30. Fee 40. Du

For AS 08 Admin

Sec. 18.60.820. **Enforcement of compliance.** A Department of Labor inspector shall give written notice to the owner of an elevator of each violation of safety standards as a result of his inspection. If within 15 days after receipt of written notice of a safety violation the person notified does not rectify the condition, the commissioner of the Department of Labor shall authorize the elevator to be closed until the safety violations are rectified. (§ 1 ch 44 SLA 1976)

Article 11. Snow Safety.

Section

822. Snow safety and operation plan

Collateral references. — 39A C.J.S.,
Health and Environment, §§ 3, 5, 47.

Sec. 18.60.822. **Snow safety and operation plan.** A ski area may not be operated except under a snow safety and operation plan approved

- (1) by the commissioner of public safety; or
- (2) by the agency of the United States that manages land on which the ski area operates. (§ 3 ch 80 SLA 1980)

Cross references. — As to limitations on claims arising from skiing, see AS 09.65.135.

Chapter 62. Certificates of Fitness.

Section

10. Certificate of fitness required
20. Application for and issuance of certificate
30. Fee
40. Duration of certificate

Section

50. Issuance and contents of certificate
60. Power of the department
70. Persons required to obtain certificate
80. Penalty

NOTES TO DECISIONS

For comparison of this chapter with AS 08.40.005 — 08.40.200, "Electrical Administrators," see Allison v. State, Sup. Ct. Op. No. 1703 (File No. 3716), 583 P.2d 813 (1978).

LEGISLATIVE PROPOSAL ANALYSIS

RECEIVED

FEB 15 1983

PUBLIC WORKS
DIRECTORS OFFICE

Subject of Proposed Bill:

"Elevator Safety Standards"

Background Information:

Every three years, the American Society of Mechanical Engineers revises and adopts the safety code for installation and operation of elevators, escalators, dumb waiters, and moving sidewalks, recognizing the most recent technology in this field. Existing elevator installations will not be required to meet the updated standards,

Summary:

The bill amends AS 18.60.800 to adopt the 1981 Safety Code which conforms to 1) the Basic Building Code; 2) the National Building Code; 3) the Standard Building Code; and 4) the Uniform Building Code with respect to fire resistance ratings, earthquake protective devices, alteration, repairs, and/or replacements. Therefore, all codes are uniform in addressing the safety codes for installation of elevators, escalators, etc. Other important features which are incorporated in the code are those regarding venting, as well as the operations of elevators under fire or other emergency conditions. It adopts the current National Safety Practice's inspector's manual as the guide for Department of Labor elevator inspectors.

The bill adds AS 18.60.830, to provide that municipalities may adopt their own standards as long as those standards are at least as stringent as those required under AS 18.60.800. Currently, the Municipality of Anchorage has adopted an elevator code and performs inspections within its jurisdiction. AS 18.60.810 is repealed in Section 4 of the bill. The current safety code adopted in Section 1 of the bill requires an emergency power source for elevators, making AS 18.60.810 unnecessary.

Estimated Fiscal Impact: (FY '83 - FY '87)

To the state: -0-

To others: -0-

Constituent Groups:

Opposed: N/A

In Favor: City of Anchorage

OTIS ELEVATOR COMPANY

Far West Region

Bayview Commercial Center

619 Warehouse Avenue, Suite 202, Anchorage, Alaska 99501 (907) 278-4575

April 12, 1983

Senator Joe Josephson
Alaska State Legislature
Pouch V (MS-3100)
Juneau, AK. 99611

Subject: Senate Bill No. 182 - Referred by the Department of Labor
and Commerce - March 17, 1983

Dear Senator Josephson,

We have reviewed Senate Bill No. 182 and must express our concern regarding the change to the elevator safety standards.

Section 2 - AS18.60.800 (b)(2) permits inspections to be made in a Municipality at the option of the Municipal Inspection Division.

OTIS Elevator installs the majority of all elevators within and outside the Municipality of Anchorage and have found that the State of Alaska Elevator Inspection Division is most competent, fair and thorough although somewhat short handed.

Inspections for new installations have to be scheduled in advance (two to six weeks) to assure that an Inspector is available at the time the project is completed.

The code you are adopting does not permit the operation of the elevator without the approved inspection tests, which we feel is appropriate.

However, due to the number of installations we install and maintain, the single inspector the State has is extremely pressed to make all the additional annual safety inspections.

Moreover, we express our concern within the Municipality of Anchorage because of the degree of sophistication of the elevator equipment and the large population of people using this type of equipment.

In the last several years the State has given over the inspection duties to the Municipality on the assumption that all inspections would be made in accordance with the ANSI code and will be at least as stringent if not more so than State Inspections.



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