

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 8672

2604 SLC SR 104 - SR 134

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Sec. 23.40.140. Orders and decisions. If the labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the labor relations agency shall issue and serve on the person an order or decision requiring him to cease and desist from the prohibited practice and to take affirmative action which will carry out the provisions of AS 23.40.070 — 23.40.260. If the labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation. (§ 2 ch 113 SLA 1972)

Cross references. — As to applicability of this article to ferry personnel, see note following article 2 analysis.

NOTES TO DECISIONS

Applied in *Haffling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1979).

Sec. 23.40.150. Enforcement by injunction. The labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the labor relations agency. Upon a showing by the labor relations agency that the person has engaged or is about to engage in the practice, an injunction, restraining order, or other order which is appropriate may be granted by the court and shall be without bond. (§ 2 ch 113 SLA 1972)

Cross references. — As to applicability of this article to ferry personnel, see note following article 2 analysis.

NOTES TO DECISIONS

Applied in *Haffling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Sec. 23.40.160. Power to investigate and compel testimony. (a) For the purpose of the investigations, proceedings, or hearings which the labor relations agency considers necessary to carry out the provisions of AS 23.40.070 — 23.40.260, the labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The labor relations agency may administer oaths, examine witnesses, and receive evidence.

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(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under AS 23.40.070 — 23.40.260, the superior court in the district in which the person resides or is found may, upon application by the labor relations agency, issue an order requiring him to comply with the subpoena. (§ 2 ch 113 SLA 1972)

Cross references. — As to applicability of this article to ferry personnel, see note following article 2 analysis.

NOTES TO DECISIONS

Applied in *Haffling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Sec. 23.40.170. Regulations. The labor relations agency may adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out the provisions of AS 23.40.070 — 23.40.260. (§ 2 ch 113 SLA 1972)

Sec. 23.40.180. Penalty for violation of order or decision. A person who violates a provision of an order or decision of the labor relations agency is guilty of a misdemeanor and is punishable by a fine of not more than \$500. (§ 2 ch 113 SLA 1972)

Cross references. — As to applicability of this article to ferry personnel, see note following article 2 analysis. As to sentences for misdemeanors, see AS 12.55.135.

NOTES TO DECISIONS

Applied in *Haffling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Sec. 23.40.190. Mediation. If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, a deadlock exists between a public employer and an organization, the labor relations agency may appoint a competent, impartial, disinterested person to act as mediator in any dispute either on its own initiative or on the request of one of the parties to the dispute. The parties may also select a mediator by agreement or mutual consent. It is the function of the mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the labor relations agency has any power of compulsion in mediation proceedings. (§ 2 ch 113 SLA 1972)

Sec. 23.40.200. Classes of public employees; arbitration. (a) For purposes of this section, public employees are employed to perform services in one of the three following classes:

- (1) those services which may not be given up for even the shortest period of time;
- (2) those services which may be interrupted for a limited period but not for an indefinite period of time; and
- (3) those services in which work stoppages may be sustained for extended periods without serious effects on the public.

(b) The class in (a)(1) of this section is composed of police and fire protection employees, jail, prison and other correctional institution employees, and hospital employees. Employees in this class may not engage in strikes. Upon a showing by a public employer or the labor relations agency that employees in this class are engaging or about to engage in a strike, an injunction, restraining order, or other order which may be appropriate shall be granted by the superior court in the judicial district in which the strike is occurring or is about to occur. If an impasse or deadlock is reached in collective bargaining between the public employer and employees in this class, and mediation has been utilized without resolving the deadlock, the parties shall submit to arbitration to be carried out under AS 09.43.030.

(c) The class in (a)(2) of this section is composed of publ. utility, snow removal, sanitation and public school and other educational institution employees. Employees in this class may engage in a strike after mediation, subject to the voting requirement of (d) of this section, for a limited time. The limit is determined by the interests of the health, safety or welfare of the public. The public employer or the labor relations agency may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten the health, safety or welfare of the public. A court, in deciding whether or not to enjoin the strike, shall consider the total equities in the particular class. "Total equities" includes not only the impact of a strike on the public but also the extent to which employee organizations and public employers have met their statutory obligations. If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit to arbitration to be carried out under AS 09.43.030.

(d) The class in (a)(3) of this section includes all other public employees who are not included in the classes in (a)(1) or (a)(2) of this section. Employees in this class may engage in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to do so.

(e) Notwithstanding the provisions of (b), (c) and (d) of this section, the employees with the concurrence of the employer may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

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Applied in Union, Sup. 3438), 585 P.

Sec. 23. Board of R

(f) The parties to a collective bargaining agreement may provide in the agreement a contract for arbitration to be conducted solely according to the Uniform Arbitration Act (AS 09.43) if the Act is incorporated into the agreement or contract by reference. (§ 2 ch 113 SLA 1972)

Cross references. — As to applicability of this article to ferry personnel, see note following article 2 analysis.

NOTES TO DECISIONS

Applied in *Hasting v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Sec. 23.40.210. Agreement. Upon the completion of negotiations between an organization and a public employer, if a settlement is reached, the employer shall reduce it to writing in the form of an agreement. The agreement may include a term for which it will remain in effect, not to exceed three years. The agreement shall include a pay plan designed to provide for a cost-of-living differential between the salaries paid employees residing in the state and employees residing outside the state. The plan shall provide that the salaries paid, as of August 26, 1977, to employees residing outside the state shall remain unchanged until the difference between those salaries and the salaries paid employees residing in the state reflects the difference between the cost of living in Alaska and living in Seattle, Washington. The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the labor relations agency. (§ 2 ch 113 SLA 1972; am § 1 ch 62 SLA 1977)

Cross references. — As to applicability of this article to ferry personnel, see note following article 2 analysis.

Effect of amendments. — The 1977 amendment added the present third and fourth sentences.

Editor's notes. — Section 2, ch. 62, SLA 1977, provides: "This Act shall be implemented in the collective bargaining

agreements which replace the collective bargaining agreements in effect or being negotiated as of the effective date of this Act."

Legislative history reports. — For report on ch. 62, SLA 1977 (HB 203), see 1977 House Journal, p. 461; 1977 Senate Journal Supplement No. 38.

NOTES TO DECISIONS

Applied in *Hasting v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Sec. 23.40.212. Agreement with the Board of Regents. (a) The Board of Regents of the University of Alaska may delegate to the

Department of Administration its authority under AS 23.40.070 — 23.40.260 to negotiate with an organization for an agreement.

(b) The Department of Administration shall participate in the negotiations between the Board of Regents and an organization. An agreement between the board and an organization requires the approval of the department. (§ 1 ch 148 SLA 1978)

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

Cross references. — As to applicability of this article to ferry personnel, see note following article 2 analysis.

Opinions of attorney general. — To the extent the cost of negotiated group life and health insurance coverage exceeds

what the State would have paid under its employer-sponsored plan, the negotiated coverage is subject to legislative approval under this section. January 23, 1978, Op. Att'y Gen.

NOTES TO DECISIONS

Applied in *Hasting v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Cited in *Warwick v. State ex rel. Chance*, Sup. Ct. Op. No. 1252 (File No. 2712), 548 P.2d 384 (1976).

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

Sec. 23.40.225. Exemption from Public Employment Relations Act. Notwithstanding the provisions of AS 23.40.220, a collective bargaining settlement reached, or agreement entered into, under AS 23.40.210 that incorporates union security provisions, including but not limited to a union shop or agency shop provision or agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the labor relations agency, the agency shall declare the employee exempt from becoming a member of a labor organization or employee association. The employee shall pay an amount of money equivalent to regular union or association dues, initiation fees, and assessments to the union or association. Nonpayment of this money subjects the employee to the same penalty as if it were nonpayment of dues. The receiving union or association shall contribute an equivalent amount of money to a charity of its

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choice not affiliated with a religious, labor or employee organization. The union or association shall submit proof of contribution to the labor relations agency. (§ 1 ch 85 SLA 1976)

Cross references. — As to applicability of this article to ferry personnel, see note following article 2 analysis. **Editor's notes.** — Section 2, ch. 85, SLA 1976 provides: "If any portion of AS 23.40.225 is declared unconstitutional or void by a court of competent jurisdiction, then that entire section is void."

NOTES TO DECISIONS

Applied in *Hasting v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

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

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

Cross references. — As to applicability of this article to ferry personnel, see note following article 2 analysis. As to nonapplicability of this article to noncertificated employees of regional educational attendance areas, see note to AS 23.40.250.

NOTES TO DECISIONS

Applied in *Hasting v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978); *Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71*, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3363), 591 P.2d 1292 (1979).

Sec. 23.40.245. Postsecondary student involvement in collective bargaining. (a) When a bargaining unit includes members of the faculty or other employees of a public institution of postsecondary education, the public employer and the representative of the bargaining unit shall permit student representatives of that institution to

- (1) attend and observe all meetings between the public employer and the representative of the bargaining unit which are involved with collective bargaining;
- (2) have access to all documents pertaining to collective bargaining exchanged by the employer and the representative of the bargaining unit, including copies of transcripts of the meetings.

(b) Student representatives may not disclose information concerning the substance of collective bargaining obtained in the course of their activities under (a) of this section, unless that information is released by the employer or the representative of the bargaining unit.

(c) For the purpose of this section, the students of the institution involved in negotiations shall select their representatives from the institution directly involved in negotiations.

(d) When the institutions are negotiating with bargaining units representing more than one major geographic area of the state, the student representatives shall be from those areas. No more than three student representatives may attend meetings at any time. (§ 1 ch 148 SLA 1978)

Sec. 23.40.250. Definitions. In AS 23.40.070 — 23.40.260, unless the context otherwise requires,

(1) "collective bargaining" means the performance of the mutual obligation of the public employer or his designated representatives and the representative of the employees to meet at reasonable times, including meetings in advance of the budget making process and negotiate in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in AS 23.40.070 — 23.40.260;

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

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

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

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

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

Cross references. — As to applicability of this article to ferry personnel, see note following article 2 analysis.

Opinions of attorney general. — AS 23.40.070(2) and paragraph (7) of this section, standing alone, clearly would make both group life and health insurance benefits and retirement benefits subject to collective bargaining since they both are "fringe benefits." January 23, 1978, Op. Att'y Gen.

Because health insurance deals with the economic interests of employees and does not deal with fundamental policy; because AS 39.30.090, the group insurance statute, authorizes the Department of Administration to obtain "a policy or policies" and because AS 39.30.090 does not specify what levels of coverage or benefits must be included in the policy (or policies)

obtained, the issue of group life and health insurance benefits is negotiable under the Public Employment Relations Act (AS 23.40.070 — 23.40.260). January 23, 1978, Op. Att'y Gen.

Given AS 39.35.120(b) and AS 39.35.170, which make inclusion in the public employees retirement system (AS 39.35.010 — 39.35.690) a condition of employment for state employees and contributions to it mandatory, the conclusion is that the legislature intended the statutory provisions of the public employees retirement system to apply to all state employees, and benefits under the public employees retirement system may not be negotiated under the Public Employment Retirement Act (AS 23.40.070 — 23.40.260). January 23, 1978, Op. Att'y Gen.

NOTES TO DECISIONS

Ferry personnel are public employees of a public employer and are not included within any of the itemized exceptions of paragraph (5). *Haffling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Since paragraph (3) of this section defines "labor relations agency," which supervises and enforces this article, as the state personnel board for state employees and the Department of Labor with regard to all other public employees, the state personnel board would be the applicable regulatory agency with regard to ferry personnel. Therefore, there is no inconsistency in the ferry crew exemption from the state personnel system and its inclusion with this article. *Haffling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Noncertificated school employees are not among those within the ambit of this article. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Borough School Dist. Classified Ass'n*, Sup. Ct. Op. No. 1802 (File No. 3800), 590 P.2d 437 (1979).

Nor are noncertificated employees of regional educational attendance

areas. — This article does not apply to the noncertificated employees of the regional educational attendance areas. *Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71*, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Since such attendance areas appear to be school districts. — Regional educational attendance areas appear to be school districts within the meaning of paragraph (5), defining "public employee" for the purposes of this article. *Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71*, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Thus, such attendance areas have no statutory duty to bargain with noncertificated employees. — This article exempts noncertificated employees of the regional educational attendance areas from its coverage. The regional educational attendance areas therefore have no statutory duty to bargain with a bargaining representative of the noncertificated employees. *Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71*, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

The legislature did not intend to bind the regional educational attendance areas to the employment contracts of their predecessor, the Alaska State Operated School System. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Although the Alaska State Operated School System, the predecessor to the regional educational attendance areas, was a state agency subject to this article and not a "school district" whose noncertificated employees are exempt under paragraph (5), and therefore did not have a "right" to refuse to bargain which it could waive. Even if the Alaska State Operated School System had waived its right to claim exemption under this article, it does not follow that the regional educational attendance areas also have waived their right to assert the statutory exemption, since the regional educational attendance areas are not simply successors

to the Alaska State Operated School System but are independent entities which have been given broad powers to run their individual school districts as they see fit. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Jurisdiction to determine applicability of collective bargaining agreement. — Because the noncertificated employees of school districts are not employees of the state directly or public employees under this article neither the state personnel board nor the Department of Labor has jurisdiction to determine the applicability of a collective bargaining agreement to the regional educational attendance areas. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Sec. 23.40.260. Short title. AS 23.40.070 — 23.40.260 may be cited as the Public Employment Relations Act. (§ 2 ch 113 SLA 1972)

Chapter 45. General Provisions.

Section

10. Definitions

Sec. 23.45.010. Definitions. In this title

- (1) "commissioner" means the commissioner of labor;
- (2) "department" means the Department of Labor;
- (3) "wages" means, except for the purposes of construing AS 23.20 and AS 23.30

(A) the basic hourly rate of pay; and

(B) all other compensation to an employee for services performed, including revocable and irrevocable contributions made by an employer to a trustee or third party for the benefit of the employee and contributions which may be reasonably anticipated in providing benefits to employees under an enforceable agreement to provide medical care, compensation for death or injury, or other fringe benefits. (am § 1 ch 115 SLA 1966)

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B 104 TITLE & SPONSOR SUMMARY

16:13 6/04/84 PAGE 1 OF 3

RENDED TITLE:

H ACT RELATING TO LABOR RELATIONS BETWEEN SCHOOL BOARDS
AND OTHER PUBLIC EMPLOYERS AND THEIR EMPLOYEES

PRIME SPONSOR: RAY.

CO-SPONSORS:

CURRENT STATUS: 5/28/84 IN (H) LABOR & COM REFERRAL: FINANCE

B 104 SENATE ACTION

16:13 6/04/84 PAGE 2 OF 3

DATE SEQ PAGE

LEGISLATIVE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
2/02/83	01	0116	FIRST READING -- COMMITTEE REPORTS
2/25/83	02	0262	L&C -- DP02, NR01
2/25/83	03	0262	F/NOTE SEN SUPPL #7
4/13/84	04	2725	MOVED FROM FIN TO RLS BY UNAN CONSENT
5/28/84	05	3325	RLS --- OTHER05 TAKEN UP IMMEDIATELY
5/28/84	06	3325	SECOND READING
5/28/84	07	3326	ADVANCED TO 3RD READING BY UNAN CONSENT
5/28/84	08	3326	THIRD READING
5/28/84	09	3326	PASSED BY DIV 15-04-01

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B 104 HOUSE ACTION

16:13 6/04/84 PAGE 3 OF 3

DATE SEQ PAGE

LEGISLATIVE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
5/28/84	10	4118	FIRST READING -- COMMITTEE REPORTS LABOR & COMMERCE FINANCE RULES

*** ** ** **

COMMITTEE REPORT

SENATE

2/21/83

FURTHER: Finance

Date: 2/24/83

Mr. President:

The Committee on Labor & Commerce has had SB 106

relating to labor relations between school and other public employers and their employees.

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

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

MEMBERS SIGNING
DO PASS

McGowan

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob ...

McGowan

CHAIRMAN

SENATE LABOR AND COMMERCE
STANDING COMMITTEE
February 24, 1983
1:35 p.m.

Members Present: Senator Dick Eliason, Chair
Senator Bob Mulcahy
Senator Pat Rodey

Members Absent: Senator Don Bennett
Senator John Sackett

COMMITTEE CALENDAR

SB 123 "An Act relating to bonds for out-of-state
contractors; and providing for an effective date."
SB 104 "An Act relating to labor relations between school
boards and other public employers and their
employees."

WITNESS REGISTER

Senator Frank Ferguson
Pouch V
Juneau, Alaska 99811
465-4989

Position statement: Prime sponsor, testified in support of SB 123.

Harry Treager, Director, Division of Occupational Licensing
Dept. of Commerce and Economic Development
Pouch D
Juneau, Alaska 99811
465-2534

Position statement: Department would support as written, depending
on a definition of out-of-state contractors and the constitutionality of
a distinction between in-state and out-of-state contractors.

Cherie Shelley, Alaska Public Employees' Association
340 N. Franklin St.
Juneau, Alaska 99801
586-2334

Position statement: Supports SB 104.

Bob Manners, National Education Association--Alaska
147 S. Franklin St.
Juneau, Alaska 99801
586-3090

Position statement: Supports SB 104.

James Robison, Commissioner, Dept. of Labor
P. O. Box 1149
Juneau, Alaska 99801
465-2700

Position statement: No firm position on SB 104.

Bob Bacolas, Director, Division of Labor Standards and Safety
Dept. of Labor
P. O. Box 1149
Juneau, Alaska 99811
465-4870

Position statement: Explained process, defended fiscal note for SB 104.

Don MacKinnon, Alaska Council of School Administrators
9115 Miner Court
Juneau, Alaska 99801
586-1083

Position statement: Opposes placing employees outside Title 14: SB 104.

Steve Hole, Dept. of Education
Pouch F
Juneau, Alaska 99811
465-2800

Position statement: No position on SB 104.

PREVIOUS ACTION

SB 123 No previous action to record.

SB 104 No previous action to record.

ACTION NARRATIVE

Tape #6
Recording
Number 006

Senator Eliason, Chair, called the meeting to order, outlined the agenda and invited Senator Frank Ferguson, sponsor of SB 123, to testify on the measure.

SB 123 relates to bonds for out-of-state contractors; and provides for an effective date. It raises the amount of the bonds for out-of-state contractors and out-of-state specialty contractors. Senator Ferguson stated that the need for the law is twofold. First, "out-of-state" fly-by-night operators bid on Alaskan projects. Once the project is done and they have left the state, the people left with the project have little recourse to recover damages from faulty work discovered once the project is utilized. Therefore, something must be done, Sen. Ferguson stated, to prevent the fly-by-night operators from coming into the state. Second, as documented by the Rural Development Council, capital projects in the state employ few in-state workers. With high unemployment in Alaska, something must be done which ensures local people receive jobs from state funded projects that fuel the economy.

About \$91 million in state funds is wrapped up in state contracts, and about one-third of that will go to out-of-state firms. A large portion of the real benefits produced by Alaska's capital budget are not being enjoyed by Alaskans. Senator Ferguson also proposed a Letter of Intent concerning the definition of "out-of-state". The letter specifies that since there is "considerable debate concerning the definition of 'out-of-state', it is the intent of the Legislature to allow the Dept. of Labor to define the term 'out-of-state' for the purposes of this bill through the Administrative Procedures Act as outlined in AS 44.62."

Number 160

Harry Treager, Director of the Division of Occupational Licensing in the Department of Commerce and Economic Development, stated that the Department submitted a position paper to support the concept of the legislation contingent upon a definition of "out-of-state" contractors and the constitutionality of a distinction between in-state and out-of-state contractors. They do support a legislative change to protect Alaskans from faulty contract work or from fraudulent contractors. Raising the contractor bond requirement (to a level sufficient to settle consumer claims) as proposed by SB 123, is a possible solution.

Number 228

A large number of claims have been filed against contractors, and the existing requirement of \$5,000 and \$2,000 is meaningless given increases for both materials and wages since the current statutes were enacted in 1968 and 1977. Mr. Treager stated that the concept of increasing the bonding amount "is in good taste." He engaged in some dialogue with Senator Mulcahy about problems facing the small and specialty contractor, both in-state and out-of-state, and difficulties in obtaining bonding.

Number 416

Harry Treager concluded his testimony by stating that Administration, the Dept. of Law, and the Division of Licensing are figuring out how to take the problem on.

Number 450

There being no further testimony on SB 123, Sen. Eliason took up the second item on the committee agenda: SB 104.

Number 460

Cherie Shelley, testifying for the Alaska Public Employees Association representing Juneau educational support staff on this measure relating to labor relations between school boards and other public employers and their employees, stated support for SB 104. Currently four school districts of the 253 in Alaska negotiate with their employers. Cherie Shelley stated support for addressing the matter in Title 23, as in SB 104, rather than in Title 14, "Teachers and School Officials", as the

subjects involved there do no relate to classified employees. She also questioned the fiscal note accompanying the bill, as it seemed inordinately high. It had been prepared to account for the expense of negotiating contracts in rural Alaska, something which Cherie feels would be uncommon.

Number 565

Senator Rodey briefly outlined the historical background of the legislation contained in SB 104.

Number 590

Bob Manners, representing NEA-Alaska, encouraged the committee to give SB 104 a "do pass recommendation", and concurred with Senator Rodey that the bill is needed to take care of an oversight in past legislation.

Number 634

James Robison, Commissioner of the Department of Labor, testified briefly on SB 104, stated support for placing the legislation in Title 23, and stated that he thinks there's "more to it", that the Department is studying it, and that the Governor's office is also developing a position. He commented on the fiscal note accompanying the measure.

Number 659

Bob Bacolas, Director of the Division of Labor Standards and Safety, Department of Labor, provided an in-depth explanation of how the fiscal note for SB 104 had been prepared. He stated that there were four unions interested in the issue: Laborers' Union, IBEW, Local 71, and Teamsters. He gave a detailed account of correct election processes, addressed opt-out provisions, and gave an overview of wage and hour investigative activities. Because the measure potentially affects 3100 employees, the Department foresees a need for 2 full-time investigators, which is one of the elements inflating the fiscal note. After a thorough account of election and negotiation protocol and procedure, Bob Bacolas entertained questions from the Chair.

Side 2

Number 019

Don MacKinnon, representing the Alaska Council of School Administrators, testified in opposition to aspects of SB 104. He feels that it is "not appropriate to place these employees outside Title 14, and addressed concerns with putting them under PERA. He stated that he does not oppose their right to bargain but wants the employees to remain in Title 14. The diversity of responsibility in rural areas does not lend itself to the mold of job descriptions in rural areas, he said, and school districts are reluctant to get into multi-year contracts.

Number 111

Sen. Mulcahy asked if Don MacKinnon would be willing to prepare the pros and cons between Title 14 and Title 23. Don MacKinnon expressed a willingness to do so. Don MacKinnon concluded his testimony by stating that there is no way to mandate bargaining.

Number 215

Cherie Shelley (APEA) stated her disagreement with Don MacKinnon. This legislation, she stated, does not provide for opt-out. She acknowledged that the process of elections is a long one, however it is possible to have "consent elections" as small groups either want APEA or someone else. Phones and telecommunications negate the need for excessive travel, and it does not seem likely that grievances will go to the Department of Labor. She further stated that it was APEA's experience that school districts want more than a one year contract.

Senator Mulcahy asked Cherie Shelley to prepare something on the pros and cons of Title 21 and Title 14.

Number 277

James Robison commented on "consent elections".

Number 306

Steve Hole, with the Department of Education, stated that the Department "doesn't have a position" and that the State Board did not have a chance to look at the measure. He said that the Board has never made a recommendation in the past, but that it is "our intent to recommend that they take action."

Senator Rodey moved that SB 104 be passed out with individual recommendations, his own being "Do Pass". There being no objection, it was so ordered. The meeting was adjourned.

Title "An Act relating to labor relations between school boards and other public employers and their employees."

Contact: Judy Knight
465-2700
Robert J. Bacolas, Sr.
465-4870

This legislation makes it mandatory for all school boards and municipalities to permit their non-certificated employees to enter into collective bargaining and mandates coverage by the Public Employment Relations Act (PERA).

The Department of Labor acts as the Labor Relations Agency for all public employees (except state employees) and would be responsible for the investigation of representation petitions; determination of appropriate units for the purpose of collective bargaining; conducting elections; investigation of unfair labor practices; conducting informal and formal hearings under the Administrative Procedure Act; mediation of disputes; and strike actions.

- Section 1. AS 23.40.10u(b) would make it mandatory that "no representation" be a choice on all election ballots for elections conducted by the labor relations agency under PERA.
- Section 2. AS 23.40.200(c) permits non-certificated employees of the school board to engage in a strike.
- Section 3. Adds a new section which would prohibit a school board or municipality from rejecting having the provisions of the PERA apply to its relations with its non-certificated school employees.
- Section 4. AS 23.40.250(5) defines public employees to include non-certificated employees of school boards but excludes certificated employees of school boards.
- Section 5. AS 23.40.250(6) defines a public employer.
- Section 6. AS 23.40.250(8) defines a school board as including a regional education attendance area.
- Section 7. Collective bargaining units, agreements, and recognition of bargaining representatives in existence upon the effective date of this act shall remain status quo.

There are 53 school boards within the State of Alaska (including REAA's). Therefore the Department of Labor as the Labor Relations Agency could be monitoring elections for the 53 separate school boards and holding hearings to settle grievances or unfair labor practice charges involving approximately 4600 non-certificated employees.

Four school districts are presently organized or have a collective bargaining agreement with a union or an association. These are Fairbanks, Kenai, Juneau and Anchorage. A statement of fiscal impact has been submitted.

The Department supports the concept of extending collective bargaining to this group of public employees. However, this Administration feels that responsibility for administering the labor relations activities inherent in this bill should be placed at the local level. This could be effected by amendments to Title 14 similar to provisions in AS 14.20.550 and AS 14.20.590.

APPROVED:



Jim Robison
Commissioner
Department of Labor



Alaska Public
Employees Association **APEA**

State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

MEMORANDUM

TO: SENATOR RICHARD ELIASON

FROM: CHERIE SHELLEY
EXECUTIVE DIRECTOR

SUBJECT: SB 104

DATE: February 16, 1983

Equal treatment of employees is the major concern addressed by SB 104. Long overdue, the measure grants collective bargaining rights to noncertificated employees of Alaska's public schools.

These employees are the only public employees excluded from collective bargaining.

They include teachers' aides, secretaries, and custodians. They are the lowest paid public employees in Alaska. They are the only employees in the education sector who absorb the economic backlash when school boards intimate the presence of financial problems.

SB 104 amends the Public Employment Relations Act to require that "no representation" be one of the ballot choices in all initial representation elections. This provision guarantees that each employee will have the opportunity to fully express his or her wishes on the question of representation.

The bill preserves all existing contracts, bargaining units, and bargaining representations. It establishes the groundrules under which collective bargaining can take place. School boards may not exclude their employees from the provisions of the Public Employment Relations Act.

APEA believes passage of SB 104 will promote better employer-employee relations by affording noncertificated school employees the same equal collective bargaining rights that are provided to teachers and all other public employees.

Fairbanks Field Office
825-D College Road
Fairbanks, AK 99701
Telephone: (907) 456-5412

Anchorage Field Office
333 Gambrell Street, Suite A
Anchorage, AK 99501
Telephone: (907) 274-1688

Juneau Field Office
227 4th Street
Juneau, AK 99801
Telephone: (907) 586-6305

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill 104
Title "An Act relating to labor relations between school boards are . . ."
Requested by Senate Labor & Commerce Committee Date 2/16/83

II. FISCAL DETAIL

Agency Affected Labor
Program Category Affected Public Protection
DRU, Program, Or Subprogram(s) Affected Labor Standards and Safety
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) Operating Budget

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		237.7	246.1	172.6		

FUNDING (Thousands of Dollars)

GENERAL FUND		237.7	246.1	172.6		
FEDERAL FUNDS						
OTHER (Specify Source)						
Operating		237.7	246.1	172.6		
Capital						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The Department will be the Labor Relations Agency for 53 separate school districts involving approximately 4600 non-certificated employees.

The following four assumptions have been made.

1. An inflation rate of 6% per annum.
2. Effective date of July 1, 1983.
3. Contracts of 26 school districts will come up for renegotiations each year.
4. Fifty percent of the school districts (equates to approximately 26) will file unfair labor practice charges requiring hearing before the labor relations board. (Average hearing lasts six hours).

This fiscal note is currently being reviewed by

OMB, Office of the Governor

IV. DATE 2/16/83

PREPARED BY Robert J. Bacolas, Sr.

AGENCY Labor

Original: Legislative Finance PHONE 465-4270

cc: Budget and Management 33-001:4:9
Prime Sponsor (First Legislator Named)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for Senate Bill No. 64 (Finance)
 Title "An Act relating to Labor Relations between school boards and other . . ."
 Requested by Senate Finance Committee Date January 19, 1982

II. FISCAL DETAIL

Agency Affected Labor
 Program Category Affected Public Protection
 BRU, Program, or Subprogram(s) Affected Labor Standards & Safety

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

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		43.5	47.9	52.6	57.9	63.7
200 TRAVEL		16.5	18.2	20.0	22.0	24.2
300 CONTRACTUAL		33.7	37.1	40.8	44.9	49.3
400 COMMODITIES		2.0	2.2	2.4	2.7	2.9
500 EQUIPMENT		3.3	-	-	-	-
600 LAND & STRUCTURES		-	-	-	-	-
700 GRANTS, CLAIMS, ETC.						
TOTAL		99.0	105.4	115.8	127.5	140.1

FUNDING (Thousands of Dollars)

GENERAL FUND		99.0	105.4	115.8	127.5	140.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

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

1. Personal Services cost at salary and benefit cost effective 3/16/82.
2. Travel statewide - Wage & Hour Investigator II.
3. Contractual Services - includes legal services for hearing officers, word processing services, rent, and indirect costs.
4. Equipment, desk, chairs, filing cabinet, recorder, and calculator.
5. Inflation factor used - 10% for all items.
6. Assumes effective date of July 1, 1982.
7. Assumes that the 48 potential school districts would enter into collective bargaining elections on a gradual basis - i.e., initial elections would be spread over a two-year period.

IV. DATE January 19, 1982 PREPARED BY *Richard F. Lenciel*
Nico Bus, Finance Officer
 AGENCY Labor
 PHONE 465-2720
 Original: Legislative Finance
 cc: Budget and Management
Prime Sponsor (First Legislator Named)

I. REQUEST
 Bill/Resolution No. Senate Bill 11 64
 Title "An Act relating to Labor Relations between school boards and other..."
 Requested by Senate Labor and Commerce Committee Date January 19, 1981

II. FISCAL DETAIL

Agency Affected Department of Labor
 Program Category Affected Public Protection
 BRU, Program, or Subprogram(s) Affected Wage and Hour Administration
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		40.5	43.7	47.2	51.0	55.1
200 TRAVEL		15.0	16.1	17.2	18.4	19.7
300 CONTRACTUAL		24.4	26.4	28.5	30.8	33.3
400 COMMODITIES		1.8	1.9	2.0	2.2	2.4
500 EQUIPMENT		3.0	Ø	Ø	Ø	Ø
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		84.7	88.1	94.9	102.4	110.5

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		84.7	88.1	94.9	102.4	110.5
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

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

1. Personal Services cost at current salary and benefit cost (1/1/81).
2. Travel Statewide - Wage and Hour Investigator II.
3. Contractual Services, includes Legal Services for Hearing Officers and word processing services.
4. Equipment, Desk, Chairs, Filing Cabinet, Recorder, and Calculator.
5. Inflation factor used - 8% for all items.
6. Assumes effective date of July 1, 1981.
7. Assumes that the 48 potential school districts would enter into collective bargaining elections on a gradual basis - i.e. initial elections would be spread over a two-year period.

IV. DATE January 19, 1981 PREPARED BY Nico Bus, Finance Officer
 AGENCY Labor

Original. Legislative Finance PHONE 465-2720

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

Thoughts on SB 104 - Labor Relations

Dept of Labor (original - I'm not sure they support it now) - support right to collective bargaining, but suggest in put in Title 14 which puts school board as labor relations agency. This arrangement is similar to teachers.

APEA - support Dept. of Labor as labor relations agency. They feel a neutral position is better. Sherie Shelley feels Dept of Labor's fiscal note is way too high. Small communities will organize themselves and will not require services of Dept. of Labor. When working with Fairbanks, APEA has used services of Dept of Labor only once in several years.

Dept of Labor - Have received many calls regarding this bill. Dept of Labor expects many request to form a union + anticipates the need of hiring 2 Wage + Hour Investigators plus 1 clerical person. The last 3 years the fiscal impact has gone as follows:

FY 82 - 84.7

FY 83 - 99.0

FY 84 - 237.7

NEA-Alaska- Through SB 78, NEA is attempting to place teachers under PERA. This bill mentions noncertificated employees, but doesn't mention teachers

I. REQUEST

Bill/Resolution No. Senate Bill 64

Title "An Act relating to Labor Relations between school boards and other..."

Requested by Senate Labor and Commerce Committee Date January 19, 1981

II. FISCAL DETAIL

Agency Affected Department of Labor

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Wage and Hour Administration

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		40.5	43.7	47.2	51.0	55.1
200 TRAVEL		15.0	16.1	17.2	18.4	19.7
300 CONTRACTUAL		24.4	26.4	28.5	30.8	33.3
400 COMMODITIES		1.8	1.9	2.0	2.2	2.4
500 EQUIPMENT		3.0	Ø	Ø	Ø	Ø
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		84.7	88.1	94.9	102.4	110.5

FUNDING (Thousands of Dollars)

GENERAL FUND		84.7	88.1	94.9	102.4	110.5
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

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

1. Personal Services cost at current salary and benefit cost (1/1/81).
2. Travel Statewide - Wage and Hour Investigator II.
3. Contractual Services, includes Legal Services for Hearing Officers and word processing services.
4. Equipment, Desk, Chairs, Filing Cabinet, Recorder, and Calculator.
5. Inflation factor used - 8% for all items.
6. Assumes effective date of July 1, 1981.
7. Assumes that the 48 potential school districts would enter into collective bargaining elections on a gradual basis - i.e. initial elections would be spread over a two-year period.

IV. DATE January 19, 1981 PREPARED BY Nico Bus, Finance Officer

AGENCY Labor

Original: Legislative Finance

PHONE 465-2720

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Title "An Act relating to labor relations between school boards and other public employers and their employees."

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

This legislation would make it mandatory for all school boards to permit their non-certificated employees to enter into collective bargaining and they would be covered by the Public Employment Relations Act (PERA). This bill would cover persons that have been barred from entering into collective bargaining under present law. The Department of Labor acts as the Labor Relations Agency for all public employees except State employees and would have to take on the added duties for these employees to conduct elections, hold hearings and settle grievances throughout the state.

- Section 1. AS 23.40.100(b) makes it mandatory that "no representation" be placed on the initial election ballots, for election ballots, for elections conducted under the Public Employment Relation Act.
- Section 2. AS 23.40.200(c) permits non-certificated employees of school boards to engage in a strike. They will be covered in Class 3.
- Section 3. AS 23.40.250(5) takes away the exemption for non-certificated school board employees.
- AS 23.40.250(6) a school board becomes a public employer under PERA.
- Section 5. AS 23.40.250 defines school board for PERA.
- Section 6. Makes it mandatory for school board to permit their non-certificated employees to enter into collective bargaining covered by the Public Employment Relations Act.
- Section 7. Any collective bargaining agreement already entered into are not covered by these laws.

Collective bargaining in the public sector is a complicated and unique field of labor law. Our experience as the Labor Relations Agency for all public employees, except State of Alaska employees, over the past fiscal year shows that the Wage and Hour Division devoted one half of a position to that function. This involved nine separate community of interests groups in the City of Fairbanks, the North Star Borough, and the City of Kodiak for a total of approximately 400 employees.

We have ascertained that there are 52 school districts within the State of Alaska (including REAA's). We are only able to identify four of those districts who are presently organized or who have a collective bargaining agreement with a union or an association. Those are Fairbanks, Kenai, Juneau, and Anchorage with a total of approximately 1,100 non-certificated employees.

POSITION PAPER CONTINUED:

So the Department of Labor can expect to be acting as the Labor Relations Agency for 48 separate school districts involving 2,400 employees. In the upcoming fiscal year the Wage and Hour Division could be monitoring elections in 48 separate school districts, or holding hearings to settle grievances on unfair labor practice charges throughout the State.

A Fiscal Note has been submitted.

1	POSITION TITLE W/H Investigator II			RANGE/STEP 18 A	BARG. UNIT. GGU	LOCATION Juneau	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		

TYPE OF EXPENDITURE		AMOUNT
1	2	3
PERSONAL SERVICES:		
SALARY	\$2,640	31,680
BENEFITS	.1721	5,452
FICA	.0613	1,808
HEALTH INS.	\$ 127 P/M	1,524
TOTAL PERSONAL SERVICES		40,464
TRAVEL		15,000
CONTRACTUAL		24,431
COMMODITIES		1,800
EQUIPMENT		3,000
OTHER		
TOTAL COST		84,695

JUSTIFICATION:

1. Personal Services: Salary Schedule effective 1/1/81.
2. Travel: \$15,000.
3. Contractual Services: \$24,431 includes Legal Services for Hearing Officers, word processing services, Telephone, Postage, and Office Copier Services.
4. Commodities: \$1,800 Supplies for ballots, letters, printed matter.
5. Equipment: \$3,000 Desk, Chairs, Filing Cabinet, Recorder, and Calculator.

CODE	FUNDING SOURCE	
	FED RCPTS. 1002	
	CF MATCH. 1003	
	GEN. FUND 1004	84,695
	I-A RCPTS. 1005	
	PGM RCPTS 1006	
	OTHER	

21 CONTINUATION

22 ADDITION FOR B&M USE ONLY

KEY NUMBER _____ COLUMN NO. _____

AGENCY Labor PROGRAM Public Protection

BRU Wage and Hour

13 REQUEST FOR NEW POSITION.

COMPONENT Wage and Hour

Page 1 of 1

REVISED DATE _____

FY 82

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for Senate Bill No. 64 (Finance)
 Title "An Act relating to Labor Relations between school boards and other . . ."
 Requested by Senate Finance Committee Date January 19, 1982

II. FISCAL DETAIL

Agency Affected Labor
 Program Category Affected Public Protection
 BRU, Program, or Subprogram(s) Affected Labor Standards & Safety
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		43.5	47.9	52.6	57.9	63.7
200 TRAVEL		16.5	18.2	20.0	22.0	24.2
300 CONTRACTUAL		33.7	37.1	40.8	44.9	49.3
400 COMMODITIES		2.0	2.2	2.4	2.7	2.9
500 EQUIPMENT		3.3	-	-	-	-
600 LAND & STRUCTURES		-	-	-	-	-
700 GRANTS, CLAIMS, ETC.						
TOTAL		99.0	105.4	115.8	127.5	140.1

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		99.0	105.4	115.8	127.5	140.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

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

1. Personal Services cost at salary and benefit cost effective 3/16/82.
2. Travel statewide - Wage & Hour Investigator II.
3. Contractual Services - includes legal services for hearing officers, word processing services, rent, and indirect costs.
4. Equipment, desk, chairs, filing cabinet, recorder, and calculator.
5. Inflation factor used - 10% for all items.
6. Assumes effective date of July 1, 1982.
7. Assumes that the 48 potential school districts would enter into collective bargaining elections on a gradual basis - i.e., initial elections would be spread over a two-year period.

IV. DATE January 19, 1982 PREPARED BY Nico Bus, Finance Officer
 AGENCY Labor
 PHONE 465-2720
 Original: Legislative Finance
 cc: Budget and Management
Prime Sponsor (First Legislator Named)

STATE OF ALASKA

DEPARTMENT OF LABOR

JAY S. HAMMOND, GOVERNOR

BOX 1149 - JUNEAU 99811

February 18, 1982

The Honorable Tim Kelly
Chairman
Rules Committee
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Kelly:

On February 11, 1982 the Senate Finance Committee reported out CS for Senate Bill 64, "An Act relating to labor relations between school boards and other public employers and their employees", with a zero fiscal note. The department had submitted a fiscal note (enclosed) and testified at a Finance Committee hearing requesting funding for one position.

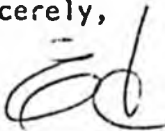
This legislation will make it mandatory for all school boards to enter into collective bargaining with their non-certificated employees under AS 23.40(PERA). CS for Senate Bill 64 will require the Department of Labor, Labor Relations Agency, to assume additional responsibilities without any attendant funding.

Collective bargaining in the public sector is a complicated and unique field of labor law. Our experience as a labor relations agency for all public employees, except State of Alaska employees, reflects that the Wage and Hour unit devotes an average of one-half of a position to that function each year in handling PERA matters for as few as four municipalities involving from two to four hundred employees. There are 52 school districts within the State of Alaska (including REAA'S) with approximately 3500 non-certificated employees. Based on the information we have from employee groups and other sources, the Department of Labor, Labor Relations Agency expects to receive petitions from at least 15 separate groups of school employees as soon as this act becomes law. As a result of those petitions, we will be required to conduct representational election to determine community of interest grouping and undoubtedly investigate and hold hearings on unfair labor practice charges filed by either or both parties to all of them.

The Honorable Tim Kelly
February 18, 1982
Page 2

The Department does not have the staff or financial resources to assume the duties or responsibilities inherent in CS for Senate Bill 64 without the funding requested in the fiscal note.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Ed', is written over the word 'Sincerely,'.

Edmund N. Orbeck
Commissioner

cc: Senator Bill Ray
Members of the Rules Committee
Members of the Finance Committee

1	POSITION TITLE Wage & Hour Investigator II			RANGE/STEP 18 A	BARG. UNIT. GGU	LOCATION Juneau	GOV.	APPROV.	DIBAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		

3	TYPE OF EXPENDITURE	AMOUNT
	1	2
4	PERSONAL SERVICES: SALARY \$ 2,838	34,056
5	BENEFITS .1592	5,422
6	SBS .0613	2,088
	FIXED BENEFITS \$160 P/M	1,920
	TOTAL PERSONAL SERVICES 01	43,486
9	TRAVEL 02	16,500
10	CONTRACTUAL 03	33,730
11	COMMODITIES 04	1,970
12	EQUIPMENT 05	3,270
13	OTHER	
14	TOTAL COST	98,956

JUSTIFICATION:

1. Personal Services: Salary Schedule effective 3/16/82.
2. Travel: \$16,500.
3. Contractual Services: \$33,730 includes legal services for hearing officers, word processing services, telephone, postage, and office copier services, \$3,200 for rental of space, and \$3,900 for indirect costs.
4. Commodities: \$1,970 for supplies for ballots, letters, printed matter.
5. Equipment: \$3,270 for desk, chairs, filing cabinet, recorder, and calculator.

	RECEIPT CODE	FUNDING SOURCE
15		FED RCPTS. 1002
16		GF MATCH. 1003
17		GEN. FUND 1004
18		I-A RCPTS. 1005
19		PGM RCPTS 1028
		OTHER

21	CONTINUATION	
22	ADDITION	X

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

AGENCY Labor PROGRAM Public Protection

DRU Wage and Hour

COMPONENT Wage & Hour

Page 1 of 1 REVISED DATE _____

13 REQUEST FOR NEW POSITION.

FY 83

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

BOX 1149 - JUNEAU 99811

Phone (907) 465-2700

January 30, 1981

The Honorable Charles H. Parr
Alaska Senate
Chairman, Health, Education and
Social Services Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Parr:

On January 27, 1981 the Senate Health, Education and Social Services Committee reported out Senate Bill 64, "An Act relating to labor relations between school boards and other public employers and their employees", with a zero fiscal note. The Department had submitted a fiscal note at a previous hearing requesting funding for one position. This legislation will make it mandatory for all school boards to permit their noncertificated employees to enter into collective bargaining and those employees would be covered by the Public Employees Relation Act (PERA). Senate Bill 64 will require the Department of Labor, Wage and Hour Division to assume additional responsibilities without any attendant funding.

Collective bargaining in the public sector is a complicated and unique field of labor law. Our experiences as the labor relations agency for all public employees, except State of Alaska employees, over the past fiscal year shows that the Wage and Hour Division devoted one half of a position to that function. This involved nine separate community of interest groups in the City of Fairbanks, the North Star Borough, and the City of Kodiak for a total of approximately 400 employees.

There are 52 school districts within the State of Alaska (including REAA's). We are able to identify only four of those districts who are presently organized or who have a collective bargaining agreement with a union or an association. Those are Fairbanks, Kenai, Juneau, and Anchorage with a total of approximately 1,100 noncertificated employees. In disputed matters it is necessary that a hearing officer be appointed to hear the matter under the Administrative Procedures Act. It has been our experience in the past that an average of \$6,000 in hearing officer legal fees are expended for each of the contested matters.

Therefore the Department of Labor can expect to be acting as the labor relations agency for 48 separate school districts involving 2,400 employees. In the upcoming fiscal year, the Wage and Hour Division could be monitoring elections in many of those school districts, or holding hearings to settle grievances on unfair labor practice charges throughout the State.

Identical bills were introduced in the Eleventh Legislature (Senate Bill 213 and House Bill 453). Eleven representatives of units who would be covered by PERA, if those bills became law, testified before a House Committee. The Director of the Wage and Hour Division talked to each of the employee representatives after the hearing and was advised that if a bill passed into law, all of them intended to file a petition to be recognized as a collective bargaining unit. That information, coupled with other knowledge that we have received, makes it almost a certainty that the Department will be faced with resolving organizational labor disputes for many of these employees in school districts in the ensuing fiscal years.

The Wage and Hour Division of the Department of Labor has the responsibility for the enforcement of AS 23.40. The Division conducts elections, investigations of unfair labor practice charges, holds preliminary hearings, and presents testimony before formal hearings on matters concerning public employees (except State employees) covered by PERA. The Division consists of 19 employees located in three offices at Juneau, Anchorage, and Fairbanks.

In addition to the PERA function, this Division is also charged with enforcement responsibilities in the following areas:

- Wage Claims
- Minimum Wage and Overtime
- Establishment and Enforcement of Prevailing Wage Rates on Public Contracts
- Child Labor Laws
- Private Employment Agencies
- Bonding Requirements for Fish Buyers and Processors
- Return Transportation of Employees
- Enforcement of Contractor Licensing

<u>WAGE CLAIMS</u>	<u>FY 1979</u>	<u>FY 1980</u>
Number of Claimants	817	1,317
Amount Collected	\$444,404	\$568,595
<u>PUBLIC CONTRACTS</u>	<u>FY 1979</u>	<u>FY 1980</u>
Number Public Contracts	428	645
Number Payrolls Audited	5,292	9,062
Number Employees Involved	30,081	51,180
Amount Collected for Workers	\$132,581	\$684,010

<u>FISH BUYERS/PROCESSORS BONDED</u>	<u>FY 1979</u>	<u>FY 1980</u>
	251	460
<u>ENFORCEMENT-CONTRACTOR LICENSING</u>	<u>FY 1979</u>	<u>FY 1980</u>
Number of Investigations	106	158

In the rapidly expanding seafood processing industry, the Wage and Hour Division is dealing with labor law problems involving many more employees each year.

<u>SEAFOOD PROCESSING EMPLOYEES</u>	<u>FY 1979</u>	<u>FY 1980</u>
	5,150	7,511

A large percentage of the increase in activity of this industry has occurred in those plants and vessels located westward of Kodiak. While the Wage and Hour Division did not separate wage, return transportation, minimum wage and overtime, etc., matters for the seafood processing industry prior to FY 1981, the investigators enforcing the Wage and Hour Act in that region report that their activity has increased 28% each quarter since statistics were recorded. The increase in activity in the seafood processing industry for the last three years has made it necessary that the Department hold an increased number of training sessions for employees and informational meetings with representatives of the industry. Prior to FY 1979 no such meetings were held on a regular basis; however, since the fall of 1978 the Department has met with industry representatives eight times in Seattle and has held 18 informational sessions with employees in various locations throughout the State.

The responsibility for enforcing the bonding requirements of AS 16.10.290, fish buyers and processors, was enacted into law in 1977. In FY 1980, 465 requests for certification were processed which involved several hundred pieces of correspondence, many interviews and investigations, as well as handling the claims against those bonds.

In 1980, a flextime overtime amendment to AS 23.10.060 was passed, (Chapter 0031 SLA 80). In the four months since that law became effective the Wage and Hour Division has approved and certified 31 agreements between the employees and employers who choose to take advantage of such a work plan.

In FCCS for House Bill 60 (1980) over 400 new public contracts were identified that the Wage and Hour Division must monitor in the upcoming building season, in addition to ongoing projects.

January 30, 1981

These additional duties and responsibilities were placed on the Wage and Hour Division without any additional funding. The Department cannot assume the workload inherent in Senate Bill 64 without the funding requested in our fiscal note.

Sincerely,



Edmund N. Orbeck
Commissioner

cc: Health, Education and Social Services Committee
The Honorable Bill Ray

Title "An Act relating to labor relations between school boards and other public employers and their employees."

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

This legislation would make it mandatory for all school boards to permit their non-certificated employees to enter into collective bargaining and they would be covered by the Public Employment Relations Act (PERA). This bill would cover persons that have been barred from entering into collective bargaining under present law. The Department of Labor acts as the Labor Relations Agency for all public employees except State employees and would have to take on the added duties for these employees to conduct elections, hold hearings and settle grievances throughout the state.

- Section 1. AS 23.40.100(b) makes it mandatory that "no representation" be placed on the initial election ballots, for election ballots, for elections conducted under the Public Employment Relation Act.
- Section 2. AS 23.40.200(c) permits non-certificated employees of school boards to engage in a strike. They will be covered in Class 3.
- Section 3. AS 23.40.250(5) takes away the exemption for non-certificated school board employees.
- AS 23.40.250(6) a school board becomes a public employer under PERA.
- Section 5. AS 23.40.250 defines school board for PERA.
- Section 6. Makes it mandatory for school board to permit their non-certificated employees to enter into collective bargaining covered by the Public Employment Relations Act.
- Section 7. Any collective bargaining agreement already entered into are not covered by these laws.

Collective bargaining in the public sector is a complicated and unique field of labor law. Our experience as the Labor Relations Agency for all public employees, except State of Alaska employees, over the past fiscal year shows that the Wage and Hour Division devoted one half of a position to that function. This involved nine separate community of interests groups in the City of Fairbanks, the North Star Borough, and the City of Kodiak for a total of approximately 400 employees.

We have ascertained that there are 52 school districts within the State of Alaska (including REAR's). We are only able to identify four of those districts who are presently organized or who have a collective bargaining agreement with a union or an association. Those are Fairbanks, Kenai, Juneau, and Anchorage with a total of approximately 1,100 non-certificated employees.

POSITION PAPER/Department of Labor

POSITION: PAPER CONTINUED:

So the Department of Labor can expect to be acting as the Labor Relations Agency for 48 separate school districts involving 2,400 employees. In the upcoming fiscal year the Wage and Hour Division could be monitoring elections in 48 separate school districts, or holding hearings to settle grievances on unfair labor practice charges throughout the State.

A Fiscal Note has been submitted.

S

B

113

SB 113 TITLE & SPONSOR SUMMARY

14:08 5/22/84 PAGE 1 OF 2

AMENDED TITLE:

AN ACT RELATING TO ESTABLISHMENT OF AN AIR TAXI AND AIR SCHOOL OPERATORS INDEMNITY CORPORATION OF ALASKA

PRIME SPONSOR: JOSEPHSON.

CO-SPONSORS: ELIASON, FERGUSON.

CURRENT STATUS: 2/08/83 IN (S) LABOR & COM REFERRAL: FINANCE

SB 113 SENATE ACTION

14:08 5/22/84 PAGE 2 OF 2

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/08/83	01	0147	FIRST READING --- COMMITTEE REPORTS LABOR & COMMERCE FINANCE RULES

*** ** ** ** **

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 113 Date on Bill: 2/8/83
 Title: An Act relating to establishment of an Air Taxi & Air School Operations Indemnity Co
 Sponsor: Josephson, Eliason, Ferguson
 Requestor: _____

1. Estimated fiscal impacts on: Division of Risk Management

a. Expenditures: -0-

(Thousands of Dollars)

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

b. Revenues:

Revenue						
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2. Source of funds to offset fiscal impact of bill:
N/A

3. Assumptions:

4. Disclaimer:
 This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: John Haywood Phone: 465-2180
 Division: Risk Management Date: 3/4/83
 Approved by Commissioner: Lisa Rudd Date: 3/15/83
 Department: Administration

5. Distribution:
 Original to Legislative Finance
 Copy to OMB
 Copy to Sponsor
 Copy to Requestor

2/8/83

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

NEWS RELEASE

FOR INFORMATION CONTACT: GINGER JOHNSON, INFORMATION OFFICER (907) 465-3900

FOR IMMEDIATE RELEASE

ALASKA AVIATION SAFETY FOUNDATION GRANT
131

April 12, 1983

Juneau--A grant of \$590,000 is proposed for the Department of Transportation and Public Facilities to assist the Alaska Aviation Safety Foundation.

The funds, which Governor Sheffield included in the budget for the special project, pays for developing an Alaskan aviation training system.

Pilot error has been shown to be a frequent factor in Alaska aviation accidents. A preliminary study identifying specific training objectives has been completed. The final report identifies areas of instruction needed for pilots and improved management practices for air taxi operators to improve safety.

The \$590,000 grant will allow the AASF to proceed with curriculum development to produce a 25-lesson plan and student manuals. These materials would then be used by experienced aviation operators when training both private and commercial pilots.

Insurance and aviation industries, and legislators, have indicated strong support for the proposed training program.

(More)

The Alaska Aviation Foundation Grant...Add One

Discounted insurance rates to pilots are being extended because of Alaska's efforts to improve air safety. Once the program is producing good results further reductions can be expected.

The Alaska Aviation Safety Foundation Grant was formed by the Alaska Air Carriers Association.

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S

B

123

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

POSITION PAPER -- SB 123

SB 123: "An Act relating to bonds for out-of-State contractors; and providing for an effective date."

The Department of Commerce and Economic Development would support a legislative change to protect Alaskans from faulty contract work or from fraudulent contractors. Raising the contractor bond requirement to a level sufficient to settle consumer claims is a possible solution.

While the intent of SB 123 is to protect the public from "fly by night" contractors, support of the legislation as written depends on a definition of out-of-state contractors and the constitutionality of a distinction between in-State and out-of-state contractors. The proposed bond requirement, which would cost from \$750.00 - \$2,000.00 more than the present requirement, may eliminate reliable out-of-state contractors from working in Alaska and yet permit poor resident contractors to operate. It may also result in a situation where the incompetent out-of-state contractor will work in Alaska without registering or posting a bond.

The current statutes were enacted in 1968 and 1977. Since that time, costs have increased for both materials and wages. AS 08.18.081 requires a person having a claim bring suit in Superior Court. A suit in Superior Court requires the services of an attorney and, therefore, an added cost to the consumer seeking a contractor claim. The existing requirement of \$5,000.00 and \$2,000.00 is meaningless in settling claims and could reasonably be raised for all contractors, regardless of residency. The current bond requirement, however, is substantially the same as that required by the states of Washington and California.

A second possible solution is to tighten the enforcement statutes that are administered by the Department of Labor. Stronger enforcement ability may be a deterrent to the fraudulent contractors.



Harry D. Treager, Director
Division of Occupational Licensing
Department of Commerce & Economic Development



Department of Commerce & Economic Development

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 123 Date on Bill: 2/11/83
 Title: An Act relating to bonds for out of state contractors
 Sponsor: Senator Ferguson
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

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

b. Revenues:

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

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

3. Assumptions:

4. Disclaimer:

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

Prepared By: Darrell Miller *DM* Phone: 465-2535
 Division: Occupational Licensing *2* Date: _____

Approved by Commissioner: Richard A. Lyon *RL* Date: _____
 Department: Commerce and Economic Development

5. Distribution:
- Original to Legislative Finance
 - Copy to OMB
 - Copy to Sponsor
 - Copy to Requestor

2/15/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 123 Date on Bill: 2-11-83
 Title: An Act Relating to Bonds for Out-Of-State Contractors: And an Effective Date
 Sponsor: Senator Ferguson
 Requestor: _____

1. Estimated fiscal impacts on: This bill, if enacted, will not have a financial impact on this Department. Perhaps the Department of Transportation and Public Facilities and the Department of Law should review it carefully.

a. Expenditures:

(Thousands of Dollars)

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

b. Revenues:

Revenue						
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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.

Prepared By: Bob Link *Bob Link* Phone: 465-2250
 Division: General Services & Supply Date: 2-25-83

Approved by Commissioner: *Lisa Rudd* Date: 3/15/83
 Department: Administration

5. Distribution:
 Original to Legislative Finance
 Copy to OMB
 Copy to Sponsor
 Copy to Requestor

2/8/83

SB 123 TITLE & SPONSOR SUMMARY 14:08 5/22/84 PAGE 1 OF 2
AMENDED TITLE:
AN ACT RELATING TO BONDS FOR OUT-OF-STATE CONTRACTORS;
AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: FERGUSON.

CO-SPONSORS:

CURRENT STATUS: 2/11/83 IN (S) LABOR & COM

SB 123 SENATE ACTION 14:08 5/22/84 PAGE 2 OF 2
DATE SEQ PAGE LEGISLATIVE ACTION

02/11/83 01 0170 FIRST READING -- COMMITTEE REPORTS
LABOR & COMMERCE
RULES

**** ** ** *** ** *

Letter of Intent to Accompany Senate Bill 123

Since there is considerable debate concerning the definition of "out-of-state", it is the intent of the Legislature to allow the Department of Labor to define the term "out-of-state" for the purposes of this bill through the Administrative Procedures Act as outlined in AS 44.62.

Letter of Intent suggested by Sen. Ferguson

Information on Senate Bill 123

Presented by

Senator Frank R. Ferguson

The need for this law is twofold. One, brought to my attention by a constituent, is that that "out-of-state" fly-by-night operators bid on Alaskan projects. Once the project is done and they have left the state, the people left with the project have little recourse to recover damages from faulty work discovered once the project is actually utilized. Therefore, we must do something to prevent the fly-by-night operators from coming into the state.

Second, as documented by the Rural Development Council, capital projects in the state employ few in-state workers. With high unemployment in Alaska we must do something that ensures our local people receive jobs from state funded projects that fuel our economy.

26. Kotzebue Sound Hatchery - 1/1/81 - 4/30/82

61 Payrolls No Local Population

Wick Construction - Out-Of-State

Residence	Number of Wage Payments	Mean
Other Rural	143	2.3
Anchorage	57	.9
Fairbanks	11	.2
Palmer	22	.4
Kenai	22	.4
Ketchikan	47	.8
Urban Subtotal	159	2.6
<u>Out-Of-State</u>	<u>134</u>	<u>2.2</u>
Grand Total/Mean	436	7.1

Thus far individual contracts have been counted. but there are also large amount of State funds associated with these contracts, \$91,749,065 to be precise. The distribution of these funds is detailed in Chart VI. Probably the first thing to attract notice is the difference in the number of firm locations included in this table compared to the previous one. Eighteen entries are incorporated into Chart V, while Chart VI has but thirteen. As noted in the introduction to Part Two of this report, in several instances, information regarding subcontracts was not complete. In fact, the dollar amount contracted for by subcontractors was available only on 29 of 76 subcontracts, thus the discrepancy between the two tables. In compiling Chart VI, all available data, including subcontract totals where recorded, was utilized. The arresting feature to this table is its first entry. The largest share of public contract funds, almost \$31,000,000, was awarded to out-of-state firms. That one third of the appropriations devoted to public capital construction in rural Alaska may be destined for the pockets of out-of-state entrepreneurs should cause one to pause. Perhaps Alaskans concerned about the regional distribution of the State's capital budget should also be asking why continental U.S. contractors are collecting the largest single share of that budget, a share larger than that of Anchorage or Fairbanks contractors. A large portion of the real benefits produced by Alaska's capital budget are not being enjoyed by Alaskans.

this chapter may act in the capacity of a contractor under any other name unless that name also is registered. All advertising, contracts, correspondence, cards, signs, posters, papers and documents prepared by a contractor which show the contractor's name and address shall show the name and address as registered under this chapter. Individual contractors and partners, associates, agents, salesmen, solicitors, officers and employees of contractors shall use their true names and addresses at all times while acting in the capacity of a contractor or performing related activities. (§ 2 ch 100 SLA 1968)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.18.061. Requirements of political subdivision. A contractor who is licensed by the state under this chapter may not be required to give bond in applying for or holding a license issued by a political subdivision. (§ 2 ch 100 SLA 1968).

Article 2. Bond and Insurance.

Section	Section
71. Bond required	101. Insurance required
81. Claims against contractor	111. Advertising bond and insurance
91. Cancellation of bond	115. Return of cash deposit

Sec. 08.18.071. Bond required. (a) Each applicant shall, at the time of applying for a certificate of registration, file with the commissioner a surety bond running to the State of Alaska conditioned upon the applicant's promise to pay

(1) all taxes and contributions due the state and political subdivisions,

(2) all persons furnishing labor or material or renting or supplying equipment to the applicant, and

(3) all amounts that may be adjudged against the applicant by reason of negligent or improper work or breach of contract in the conduct of the contracting business or by reason of damage to public facilities occurring in the course of a construction project.

(b) If the applicant is a general contractor the amount of the bond shall be \$5,000; if the applicant is a specialty contractor the amount of the bond shall be \$2,000. In lieu of the surety bond the applicant may file with the commissioner a cash deposit or other negotiable security acceptable to the commissioner of commerce, in the amount specified for bonds.

(c) The bond required by this section remains in effect until cancelled by action of the surety, the principal, or the commissioner. No action may be commenced upon the bond later than three years after its cancellation. (§ 2 ch 100 SLA 1968; am § 1 ch 15 SLA 1977)

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Bill Fact Sheet

Date Received 2/11/83

Bill Number SB/23 Title Bonds/Out of State Contractors

Fiscal Note - Date Requested 8/14/83 Date Received 2/24

- Of Whom Katy Wallen - C+ED

Dept. Position Paper - Date Requested 8/14 Date Received 2/24

- Of Whom Katy Wallen - C+ED

Resource People

Initial Hearing - Date Feb 24, 1983

People Contacted

Sen. Ferguson - Mike Scott - Feb 16

DCEd - Katy Wallen - 2/17

Resa King - AGC - 586-1740 - 2/17

Follow-up Hearing - Date _____

Final Action _____ Date _____

S

B

134

PROPOSED AMENDMENT TO SB 134

SB 134, line 21-24 should 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 renew 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]."

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 or 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 Phone: 465-2515
 Division: Insurance Date: 3/9/83
 Approved by Commissioner: Richard A. Lyon Date: 3/9/83
 Department: Commerce and Economic Development

5. Distribution:

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

2/15/83

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 of surplus li.
 Sponsor: Mulcahy
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures: -0-

(Thousands of Dollars)

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

b. Revenues:

Revenue				

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

N/A

3. Assumptions:

4. Disclaimer:

This statement has not been reviewed by the GMB in the Office of the Governor.

Prepared By: John Haywood Phone: 465-2180
 Division: Risk Management Date: 3/4/83
 Approved by Commissioner: Lisa Rudd Date: 2/15/83
 Department: Administration

5. Distribution:

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

2/8/8

Article 2. Surplus Lines.

Section

- 160. Filing surety bond as a condition to license
- 180. Financial requirements for insurers of surplus lines
- 310. Exemptions from surplus line law

Editor's notes. — The article head set out above applies to AS 21.33.080 — 21.33.330 in the original pamphlet.

Sec. 21.33.160. Filing surety bond as a condition to license. Before receiving a license the applicant shall file with the department a surety bond in favor of the state in the penal sum of \$25,000. The bond shall be issued by an authorized corporate surety approved by the department. The bond shall be conditioned on the conduct of business under the license in conformity with the provisions of AS 21.03.010 — 21.90.110, including the payment of all taxes required to be paid by AS 21.03.010 — 21.90.110. The applicant shall keep the bond in effect during the period of the license. The surety may terminate the bond by giving at least 30 days written notice to the department. (§ 1 ch 120 SLA 1966; am § 1 ch 34 SLA 1970)

Effect of amendments. — The 1970 amendment inserted "with the department" in the first sentence, substituted "25,000" for "5,000 with the department" in that sentence, substituted "including" for "and" in the third sentence, and substi-

tuted "days" for "days'" in the last sentence. Legislative history reports. — For report on ch. 34, SLA 1970 (HB 596 am), see 1970 House Journal, p. 476.

Sec. 21.33.180. Financial requirements for insurers of surplus lines. (a) A surplus line broker shall ascertain the financial condition of an insurer before placing insurance with him. A broker may not place surplus line insurance with an insurer which he knows to be financially unsound, nor may the broker place surplus line insurance with an insurer which has capital and surplus of less than \$600,000 unless there is on file with the department a copy of a trust agreement, certified by the trustee, evidencing an existing trust of at least \$450,000 which is deposited by the insurer in a United States bank or a United States trust company and held for the protection of the insurer's United States policyholders. The department may waive the financial requirements in this subsection in circumstances in which insurance on risks located in this state cannot be procured under the requirements.

(b) A surplus line broker who violates (a) of this section is punishable by a fine of not less than \$50 or more than \$250 for each offense. The department shall also revoke his license and may not license him as a surplus line broker for a period of two years thereafter. (§ 1 ch 120 SLA 1966; am § 2 ch 34 SLA 1970)

Effect of amendments. — The 1970 amendment rewrote subsection (a) and inserted "also" in the second sentence of subsection (b).

Legislative history reports. — For report on ch. 34, SLA 1970 (HB 596 am), see 1970 House Journal, p. 475.

Sec. 21.33.310. Exemptions from surplus line law. The provisions of this surplus line insurance law controlling the placing of insurance with unauthorized insurers do not apply to reinsurance or to the following insurances when placed by licensed insurance agents of this state:

- (1) wet marine and transportation insurance, except insurance covering risk or exposure of a marine vessel engaged in commercial fishing or fish processing in the state for a period of 30 or more consecutive days in a year;
- (2) insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state;
- (3) insurance on property or operations of railroads engaged in interstate commerce;
- (4) insurance of aircraft operated in scheduled interstate flight, or cargo of such aircraft, or insurance against liability, other than workers' compensation and employers' liability, arising out of the ownership, maintenance or use of the aircraft. (§ 1 ch 120 SLA 1966; am § 2 ch 156 SLA 1970; am § 8 ch 206 SLA 1976; am § 60 ch 94 SLA 1980)

Effect of amendments. — The 1970 amendment substituted the language following "transportation" for "insurances" in paragraph (1). The 1976 amendment deleted "owned or operated by manufacturers of aircraft, or

aircraft" following "insurance of aircraft" near the beginning of paragraph (4). The 1980 amendment substituted "workers' compensation" for "workmen's compensation."

Chapter 36. Trade Practices and Frauds.

Section

- 10. Purpose
- 30. Misrepresentation and false advertising of insurance policies
- 60. False financial statements
- 70. Defamation
- 90. Unfair discrimination
- 122. Premium financing
- 126. Unfair claim settlement practices

Section

- 130. Stock operations and advisory board contracts
- 140. [Repealed]
- 165. Favored agent or insurer; coercion of debtors
- 190. Fictitious groups
- 210. Limits on cancellation
- 220. Notice of cancellation

1 134 TITLE & SPONSOR SUMMARY 16:13 6/04/84 1 OF 3

ENDED TITLE: CSSB 134(L&C)
ACT RELATING TO SURETY BOND AND FINANCIAL REQUIREMENTS
OF INSURERS OF SURPLUS LINES
PRIME SPONSOR: MULCAHY.

3-SPONSORS:
CURRENT STATUS: 2/22/84 CHAPTER 0009 SLA 84

2 134 SENATE ACTION 16:13 6/04/84 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
2/22/83	01	0231	FIRST READING -- COMMITTEE REPORTS
4/18/83	02	0726	L&C -- CS04
4/18/83	03	0726	L&C F/NOTE EQUALS ZERO
5/09/83	04	0926	RLS -- L&C CS05, OTHER05 TAKEN UP IMMEDIATELY
5/09/83	05	0927	POSTPONED UNTIL 05/10/83 BY UNAN CONSENT
5/10/83	06	0938	SECOND READING
5/10/83	07	0938	L&C CS ADOPTED BY UNAN CONSENT
5/10/83	08	0939	ADVANCED TO 3RD READING BY UNAN CONSENT
5/10/83	09	0939	THIRD READING
5/10/83	10	0939	PASSED BY DIV 18-00-02
2/09/84	19	2028	TRANSMITTED TO GOVERNOR
2/22/84	20	2152	SIGNED BY GOVERNOR-CH0009, EFF 05/22/84

3 134 HOUSE ACTION 16:13 6/04/84 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
5/11/83	11	1277	FIRST READING -- COMMITTEE REPORTS
5/25/83	12	1525	L&C -- DP06
2/06/84	13	2473	SECOND READING
2/06/84	14	2473	ADVANCED TO 3RD READING BY UNAN CONSENT
2/06/84	15	2473	THIRD READING
2/06/84	16	2473	PASSED BY DIV 33-01-03
2/06/84	17	2474	NOTICE OF RECONSIDERATION GIVEN
2/08/84	18	2499	PASSED ON RECONSIDERATION BY DIV 33-00-07

COMMITTEE REPORT

SENATE

2/22/33

FURTHER:

Date: 2/14/33

Mr. President:

The Committee on Labor & Commerce has had SB 276

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

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

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 134 same title
 new title
- and recommends to pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

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



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.

MSG 83-00004974 PRTY 1 04/01/83 10:45:10 ORIG: LA01 IN= 0001 OUT= 0015
FROM: SHIRLEE ANC LIO TO: POMS JUNEAU INFO
TARGET: LJHL SURJ: POM

4/1/83, SHIRLEE ANC LIO, 4974

TO: SENATORS ELIASON, MULCAHY, BENNETT, RODEY AND SACKETT
FROM: BOB NESTEL, P. O. BOX 1753, EAGLE RIVER 99577
694-4372
RE: SENATE BILL 134, SURETY BOND, REQUIREMENTS/SURPLUS LINE

LINE 11-12, 14, 19 "DEPARTMENT" SHOULD BE CHANGED TO "DIVISION OF INSURANCE." THE SURETY BOND DOES NOT PROVIDE PAYMENT TO THE STATE ONLY. SENATOR HALFORD'S OFFICE HAS THE MODEL SURPLUS LINE BILL. DIRECTOR KEN MOORE HAD ADOPTED BY THE COMMITTEE ON SURPLUS LINE OF THE NATIONAL ASSN. OF INS. COMM. PERHAPS SB 134 SHOULD BE COMBINED WITH THE MODEL BILL.

Connie (Sen Halford's office) will send model bill.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

JAY S. HAMMOND, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2515

BULLETIN 82-6

TO: ALL SURPLUS LINE BROKERS, RESIDENT AND NONRESIDENT,
LICENSED IN THE STATE OF ALASKA

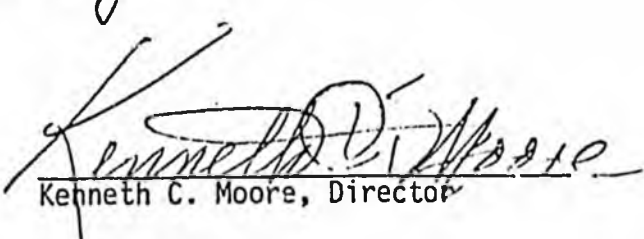
RE: ELIGIBLE UNAUTHORIZED INSURERS IN THE STATE OF ALASKA

The division has found the following nonadmitted insurers to have met the minimum trust or capital and surplus requirements. Pursuant to AS 21.33.180, we have no information which would indicate that the insurer is financially unsound.

All surplus line brokers are reminded that, pursuant to AS 21.33.180(a), surplus line brokers shall ascertain the financial condition of an insurer before placing insurance with them. The surplus line brokers shall be held strictly accountable for the solvency and the operating standard of the companies used.

The furnishing of this eligible list does not place any liability on the Division of Insurance, State of Alaska. The director of the Division of Insurance reserve the right to remove a listing, acting on his own initiative.

Done this 10th day of August, 1982, at
Juneau, Alaska.


Kenneth C. Moore, Director

Attachments

A.A. MUTUAL INTERNATIONAL INSURANCE COMPANY, LIMITED
ADMIRAL INSURANCE COMPANY
AGRICULTURAL EXCESS AND SURPLUS INSURANCE CO. (AESIC)
ALLIANCE INSURANCE COMPANY, INC.
ALLIANZ INTERNATIONAL INSURANCE COMPANY, LIMITED
ALLIANZ UNDERWRITERS, INC.
AMBASSADOR INSURANCE COMPANY
AMERICAN EXCESS INSURANCE COMPANY
AMERICAN SOUTHERN INSURANCE COMPANY
AMERICAN SPECIAL RISK INS. CO.
AMERICAS INSURANCE COMPANY
ANCON INSURANCE COMPANY, (U.K) LIMITED
ANDREW WIER INSURANCE COMPANY, LIMITED
ANGELINA CASUALTY COMPANY
APPALACHIAN INSURANCE COMPANY
ARCADIA INSURANCE COMPANY
ASSOCIATED ELECTRIC AND GAS INSURANCE SERVICES, LIMITED
ASSOCIATED INTERNATIONAL INSURANCE COMPANY
ASSURANCE GENERALES DE FRANCES - IART
ATLAS ASSURANCE COMPANY, LIMITED
AVIATION AND GENERAL INSURANCE COMPANY, LIMITED
BELLEFONTE RE INSURANCE COMPANY
BELLEFONTE UNDERWRITERS INSURANCE COMPANY
BENEFICIAL AMERICAN INSURANCE COMPANY LIMITED
BERMUDA FIRE & MARINE INS. CO., LTD.

THE BISHOPGATE INSURANCE ~~COMPANY~~^{Public} LIMITED *company*
BLUE RIDGE INSURANCE COMPANY
BRITISH AVIATION INSURANCE COMPANY, LIMITED
BRITISH LAW INSURANCE COMPANY, LIMITED
BRITISH NATIONAL INSURANCE COMPANY, *Limited*
BRYANSTON INSURANCE COMPANY, LTD.
BUFFALO REINSURANCE COMPANY
CALIFORNIA UNION INSURANCE COMPANY
CANADIAN UNIVERSAL INSURANCE COMPANY, INCORPORATED
CANAL INDEMNITY COMPANY
CAPITOL FIRE & MARINE INSURANCE COMPANY
CITY INSURANCE COMPANY (U.K.) LIMITED
CNA REINSURANCE OF LONDON, LIMITED
COLONY INSURANCE COMPANY
COLUMBIA CASUALTY COMPANY
COMMONWEALTH INSURANCE COMPANY
COMPAGNIE D'ASSURANCES MARITIMES, AERIENNES ET TERRESTRES (C.A.M.A.T.)
CUMSTOCK INSURANCE COMPANY
CONSTITUTION STATE INSURANCE COMPANY
CONSUMER INSURANCE COMPANY
COPENHAGEN REINSURANCE COMPANY (U.K.) LIMITED
CORNHILL INSURANCE COMPANY, LIMITED
COVENANT MUTUAL INSURANCE COMPANY
DANISH MARINE INSURANCE COMPANY, LIMITED
DART & KRAFT INSURANCE COMPANY, LIMITED

DOMINION INSURANCE COMPANY, LIMITED
DOWA INSURANCE COMPANY (U.K.), LIMITED
DRAKE INSURANCE COMPANY, LIMITED
ECONOMIC INSURANCE COMPANY, LIMITED
ELITE INSURANCE COMPANY
EL PASO INSURANCE COMPANY, LIMITED
EMPIRE INDEMNITY INSURANCE COMPANY
EMPLOYERS NATIONAL INSURANCE CORPORATION
ENGLISH AND AMERICAN INSURANCE COMPANY, LIMITED
ENNIA INSURANCE COMPANY (U.K.), LIMITED
ENSIGN INSURANCE COMPANY OF DELAWARE
EQUITABLE GENERAL INSURANCE COMPANY OF OKLAHOMA
EQUITY GENERAL INSURANCE COMPANY
EVANSTON INSURANCE COMPANY
EXCESS INSURANCE COMPANY, LIMITED
FALCON INSURANCE COMPANY
FIRST STATE INSURANCE COMPANY
FOLKSAM INTERNATIONAL INSURANCE COMPANY (U.K.), LIMITED
FUJI FIRE AND MARINE INSURANCE COMPANY (U.K.), LIMITED
GAN INCENDIE ACCIDENTS
GENERAL AGENTS INSURANCE COMPANY OF AMERICA, INC.
GENERALI ASSICURAZIONI GENERALI S.P.A.
GIBRALTAR CASUALTY COMPANY
GREAT AMERICAN SURPLUS LINES INSURANCE COMPANY
GREAT ATLANTIC INSURANCE OF DELAWARE

GREAT FALLS INSURANCE COMPANY
GREAT SOUTHWEST FIRE INSURANCE COMPANY OF MESA, ARIZONA
GUARANTY NATIONAL INSURANCE COMPANY
GUARDINA ROYAL EXCHANGE ASSURANCE, LIMITED
GUILDHALL INSURANCE COMPANY, LIMITED
HEDDINGTON INSURANCE (U.K.) LTD.
HOLLAND-AMERICAN INSURANCE COMPANY
HOME INSURANCE COMPANY OF ILLINOIS
HULSON INSURANCE COMPANY
ILLINOIS EMPLOYERS INSURANCE OF WAUSAU
ILLINOIS INSURANCE EXCHANGE
INDUSTRIAL INSURANCE COMPANY OF HAWAII, LTD.
JNSCO, LIMITED
INSURANCE COMPANY OF NORTH AMERICA (U.K.) LIMITED
INSURANCE CORPORATION OF IRELAND, LIMITED
INTEGON GENERAL INSURANCE CORPORATION
INTERNATIONAL SURPLUS LINES INSURANCE COMPANY
INTERSTATE FIRE AND CASUALTY COMPANY
KEMPER REINSURANCE LONDON, LTD. (Formerly Tower Hill Ins. Co. Ltd.)
LA CONCORDE COMPAGNIE D'ASSURANCES SA
LANDMARK INSURANCE COMPANY
LA REUNION FRANCAISE, S.A. D'ASSURANCES ET DE REASSURANCES
LEXINGTON INSURANCE COMPANY
LINCOLN INSURANCE COMPANY
LLOYD'S UNDERWRITERS AT LONDON

Elizabethan *P. I. C.*
LOMBARD₁ INSURANCE COMPANY, ~~INC.~~
LONDON AND HULL MARITIME INSURANCE COMPANY, LIMITED
LOUISVILLE INSURANCE COMPANY, LTD.
MAINE BONDING AND CASUALTY COMPANY
MENTOR INSURANCE COMPANY (U.K.), LIMITED
MENTOR INSURANCE, LIMITED
MIDLAND PROPERTY AND CASUALTY INSURANCE COMPANY
MINISTER INSURANCE COMPANY, LIMITED
MONTICELLU INSURANCE COMPANY
MT. HAWLEY INSURANCE COMPANY
MOUNT VERNON FIRE INSURANCE COMPANY
MUTUAL FIRE, MARINE AND INLAND INSURANCE COMPANY
MUTUAL REINSURANCE COMPANY LIMITED
NATIONAL FIRE AND MARINE INSURANCE COMPANY OF OMAHA
NATIONAL SECURITY FIRE & CASUALTY COMPANY
NEW YORK INSURANCE EXCHANGE, INC.
NEW YORK MARINE & GENERAL INSURANCE COMPANY
NIPPON FIRE & MARINE INSURANCE COMPANY (U.K.), LIMITED
NORTH ATLANTIC INSURANCE CO., LTD. .
NORTHBROOK EXCESS AND SURPLUS INSURANCE COMPANY
NORTH EAST INSURANCE COMPANY
NORTHERN MARITIME INSURANCE COMPANY, LIMITED
NORTHFIELD INSURANCE COMPANY
NORTHUMBERLAND GENERAL INSURANCE COMPANY LIMITED
NORTH STAR EXCESS REINSURANCE CORPORATION

NORWICH UNION FIRE INSURANCE SOCIETY, LIMITED (NUFIS)
NRG LONDON REINSURANCE COMPANY, LIMITED
NUTMEG INSURANCE COMPANY
~~OCEANUS MUTUAL UNDERWRITING ASSOCIATION (BERMUDA), LIMITED - OFF~~
OPTIMUM INSURANCE COMPANY OF ILLINOIS
ORION INSURANCE COMPANY, P.L.C.
PACIFIC INSURANCE COMPANY
PACIFIC INSURANCE COMPANY LIMITED
PACIFIC REINSURANCE CORPORATION
PEARL ASSURANCE PUBLIC LIMITED COMPANY
PENN-AMERICA INSURANCE COMPANY
PHOENIX ASSURANCE PUBLIC LIMITED COMPANY
PINE TOP INSURANCE COMPANY
PINE TOP INSURANCE COMPANY, LIMITED
PLANET ASSURANCE COMPANY, LIMITED
POHJOLA INSURANCE COMPANY (U.K.), LIMITED
POLAR-NORSKE ASSURANCE A/S
PROGRESSIVE AMERICAN INSURANCE COMPANY
PROVINCIAL INSURANCE COMPANY, LIMITED
PRUDENTIAL ASSURANCE COMPANY, LIMITED
PURITAN EXCESS AND SURPLUS LINES INSURANCE COMPANY
RELIANCE INSURANCE COMPANY OF ILLINOIS
RIUNIONE ADRIATICA DE SICURAT (ADRIATIC INSURANCE COMPANY)
RIVER PLATE REINSURANCE COMPANY, LIMITED
RIVER THAMES INSURANCE COMPANY, LIMITED

ROAD TRANSPORT AND GENERAL INSURANCE COMPANY, LIMITED
~~ROYAL INSURANCE COMPANY, LIMITED~~ *U O F P*
ROYALE BELGE INCENDIE-REASSURANCE
S AND H INSURANCE COMPANY
SAFETY MUTUAL CASUALTY COMPANY
ST. KATHERINE INSURANCE COMPANY PLC
ST. PAUL SURPLUS LINES INSURANCE COMPANY
SAMPO MUTUAL INSURANCE COMPANY
SCAN RE INSURANCE COMPANY, LIMITED
SCOTTISH LION INSURANCE COMPANY, LIMITED
SIMCOE & ERIE GENERAL INSURANCE COMPANY
SKANDIA INSURANCE COMPANY, LIMITED
SOUTHAMPTON INSURANCE COMPANY LIMITED
SOUTH BRITISH INSURANCE COMPANY LIMITED (U.S. BRANCH)
SOUTHERN AMERICAN INSURANCE COMPANY
SOVEREIGN MARINE AND GENERAL INSURANCE COMPANY
SPHERE INSURANCE COMPANY, LIMITED
STANDARD FIRE INSURANCE COMPANY OF ALABAMA
STOREBRAND INSURANCE COMPANY (U.K.), LIMITED
STRONGHOLD INSURANCE COMPANY, LIMITED
SUMITOMO MARINE AND FIRE INSURANCE COMPANY (EUROPE), LIMITED
SWITZERLAND GENERAL INSURANCE CORPORATION OF NEW YORK
TAISHO MARINE AND FIRE INSURANCE COMPANY (U.K.), LIMITED
TERRA NOVA INSURANCE COMPANY, LIMITED
TEXAS FIRE & CASUALTY COMPANY

T.H.E. INSURANCE COMPANY

THREADNEEDLE INSURANCE COMPANY, LIMITED

TOKIO MARINE AND FIRE INSURANCE COMPANY (U.K.), LIMITED

TOP INTERNATIONAL INSURANCE COMPANY, LTD.

~~TRIDENT GENERAL INSURANCE COMPANY, LIMITED - B F I~~

TUDOR INSURANCE COMPANY

TUREGUM INSURANCE COMPANY

UNIGARD INDEMNITY COMPANY

UNIONAMERICAN INSURANCE COMPANY, LIMITED

UNION INTERNATIONAL INSURANCE COMPANY, LIMITED (U.S. BRANCH)

UNIONE ITALIANA REINSURANCE COMPANY OF AMERICA, INC.

UNITED AMERICAS INSURANCE COMPANY

UNITED NATIONAL INSURANCE COMPANY

UNIVERSAL SECURITY INSURANCE COMPANY

WALBROOK INSURANCE COMPANY, LIMITED

WESTERN PREFERRED CASUALTY COMPANY

WESTERN WORLD INSURANCE COMPANY, INC.

WILSHIRE INSURANCE COMPANY

WURTEMBERISCHE FEUERVERSICHERUNG AG

YASUDA FIRE & MARINE INS. CO. (U.K.) LTD.

~~YORKTOWN INDEMNITY COMPANY - I F F~~

ZURICH AMERICAN INSURANCE COMPANY OF ILLINOIS

ZURICH INTERNATIONAL LIMITED

February 28, 1983

REPORT NO. 6

INTRODUCTION OF BILLS (Senate)

Alaska
Statutes
(corrective
amendments)

SENATE BILL NO. 133, by the Rules Committee by request of the Legislative Council. Makes technical corrective amendments to various portions of the Alaska statutes.

Introduced February 21 and referred to Judiciary.

See appendix, page 231 for sectional analysis that accompanied the bill.

Insurers of
Surplus Lines
(surety bonds/
financial
requirements)

SENATE BILL NO. 134, by Senator Mulcahy. Relates to surety bond and financial requirements for insurers of surplus lines. Raises the amount of the surety bond required to be filed ". . . in favor of the state and insureds in the penal sum of \$50,000." (underlined language added--the surety bond requirement is currently \$25,000).

Also amends AS 21.33.180(a) (Financial requirements for insurers of surplus lines) providing: ". . . A broker may not place surplus line insurance with an insurer which the broker [HE] knows to be financially unsound, nor may the broker place surplus line insurance with an insurer which has capital and surplus of less than \$1,500,000 [\$600,000] unless there is on file with the department a copy of a trust agreement, certified by the trustee, evidencing an existing trust of at least \$1,500,000 [\$450,000] which is deposited by the insurer in a United States bank or a United States trust company and held for the protection of the insurer's United States policyholders. . . ." (underlined language added, bracketed language deleted).

Does not provide for an effective date (becomes law 90 days after approval by the Governor).

Introduced February 22 and referred to Labor & Commerce.

Nick Begich
Scholarship
(establishing)

SENATE BILL NO. 135, by Senators Kerttula, Ray and Rodey. Would establish the Nick Begich memorial scholarship in the Memorial Scholarship Revolving Loan Fund (AS 14.43.250--provides: "The legislature may pay tribute to the memory of Alaskans who, by the example of their lives, or by their distinguished contribution and service to this state, their community or their profession, exemplified the best that is the challenge of 'The Great Land' by the creation of memorial scholarships as a part of a general memorial scholarship revolving loan fund. . ."). The scholarship would perpetuate the memory of Nicholas John "Nick" Begich, U.S. Congressman from Alaska whose tragic loss on an airplane flight October 16, 1972, cut short a distinguished career as an educator and public official.

NAIC MODEL SURPLUS LINES LAW

Section 1. Surplus Lines Insurance Act - Short Title.

This Act shall be known and may be cited as "The Surplus Lines Law".

Section 2. Purposes - Necessity for Regulation.

This Act shall be liberally construed and applied to promote its underlying purposes which include:

- (A) Protecting persons seeking insurance in this state;
- (B) Permitting surplus lines insurance to be placed with reputable and financially sound non-admitted insurers and exported from this state pursuant to this Act;
- (C) Establishing a system of regulation which will permit orderly access to surplus lines insurance in this state encourage admitted insurers to provide new and innovative types of insurance available to consumers in this state; and
- (D) Protecting revenues of this state.

Section 3. Definitions.

As used in this Act

- (A) "Admitted insurer" means an insurer licensed to do an insurance business in this state.
- (B) "Capital" as used in the financial requirements of Section 5, means funds paid in for stock or other evidence of ownership.
- (C) ("Commissioner") means the (Commissioner) of Insurance of this state.
- (D) "Eligible surplus lines insurer" means a non-admitted insurer with which a surplus lines licensee may place surplus lines insurance under Section 5 of this Act.
- (E) "Export" means to place surplus lines insurance with a non-admitted insurer.
- (F) "Kind of insurance" means one of the types of insurance required to be reported upon in the annual statement which must be filed with the (Commissioner) by licensed insurers.

- (G) "Non-admitted insurer" means an insurer not licensed to do an insurance business in this state. This definition shall include insurance exchanges as authorized under the laws of various states.
- (H) "Producing broker" means the individual broker or agent dealing directly with the party seeking insurance.
- (I) "Surplus" as used in the financial requirements of Section 5, means funds over and above liabilities and capital of the company for the protection of policyholders.
- (J) "Surplus lines insurance" means any insurance in this state of risks resident, located or to be performed in this state, permitted to be placed through a surplus lines licensee with a non-admitted insurer eligible to accept such insurance, other than reinsurance, wet marine and transportation insurance, insurance independently procured and life and health insurance and annuities.
- (K) "Surplus lines licensee" means an individual (firm or corporation) licensed under Section 15 of this Act to place insurance on risks resident, located or to be performed in this state with non-admitted insurers eligible to accept such insurance.
- (L) "Wet marine and transportation insurance" means
- (1) Insurance upon vessels, crafts, hulls and of interests therein or with relation thereto;
 - (2) Insurance of marine builder's risks, marine war risks and contracts of marine protection and indemnity insurance;
 - (3) Insurance of freights and disbursements pertaining to a subject of insurance coming within this subsection; and
 - (4) Insurance of personal property and interests therein, in the course of exportation from or importation into any country, or in the course of transportation coastwise or on inland waters, including transportation by land, water or air from point of origin to final destination, in connection with any and all risks or perils of navigation, transit or transportation, and while being prepared for and while awaiting shipment, and during any delays, transshipment, or reshipment incident thereto

Section 4. Placement of Surplus Lines Insurance.

Insurance may be procured through a surplus lines licensee from non-admitted insurers if:

- (A) Each insurer is an eligible surplus lines insurer;
- (B) The full amount or kind of insurance cannot be obtained from insurers who are admitted to do business in this state. Such full amount or kind of insurance may be procured from eligible surplus lines insurers provided a diligent search is made among the insurers who are admitted to transact and are actually writing the particular kind and class of insurance in this state; and
- (C) All other requirements of this Act are met.

Section 5. Eligible Surplus Lines Insurers Required.

No surplus lines licensee shall place any coverage with a non-admitted insurer, unless at the time of placement, such non-admitted insurer:

- (A) Has established satisfactory evidence of good repute and financial integrity; and
- (B) Qualifies under one of the following paragraphs:
 - (1) has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction, which equals
 - (a) this state's minimum capital and surplus requirements under the laws of this state, or
 - (b) \$1,500,000 one year after enactment, and \$2,500,000 three years after enactment, and \$3,500,000 five years after enactment, and \$5,000,000 six years after enactment, whichever is greater.

After six years from enactment, the requirements of this paragraph may be satisfied by an insurer possessing less than \$5 million in capital and surplus upon an affirmative finding of acceptability by the (Commissioner). The finding shall be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, and company record and reputation within the industry. In no event shall the (Commissioner) make an affirmative finding of acceptability when the surplus lines insurer's capital and surplus is less than \$3.5 million.

DRAFTING NOTE: The following subsection is for use by those states which desire to adopt a "white list" for determining the eligibility of non-admitted insurers to write surplus lines insurance.

- (D) In addition to meeting the requirements in paragraphs (A) to (C), an insurer shall be an eligible surplus lines insurer if it appears on the most recent list of eligible surplus lines insurers published by the (Commissioner) from time to time but at least semi-annually. Nothing in this section shall require the (Commissioner) to place or maintain the name of any non-admitted insurer on the list of eligible surplus lines insurers.

Section 6. Other Non-admitted Insurers.

DRAFTING NOTE: This section is necessary only in states which have adopted Section 5 (D).

Only that portion of any risk eligible for export for which the full amount of coverage is not procurable from eligible surplus lines insurers may be placed with any other non-admitted insurer which does not appear on the list of eligible surplus lines insurers published by the (Commissioner) pursuant to Section 5 (D) but nonetheless meets the requirements set forth in Section 5 (A) to (C) and any regulations of the (Commissioner). The surplus lines licensee seeking to provide coverage through an unlisted non-admitted insurer shall make a filing specifying the amount(s) and percentage(s) of such risk to be placed, and naming the non-admitted insurer(s) with which placement is intended. Within _____ days after placing the coverage, the surplus lines licensee shall also send written notice to the insured or the producing broker that the insurance, or a portion thereof, has been placed with such non-admitted insurer.

Section 7. Withdrawal of Eligibility, Surplus Lines Insurer.

If at any time the (Commissioner) has reason to believe that an eligible surplus lines insurer

- (A) is in unsound financial condition,
- (B) is no longer eligible under Section 5,
- (C) has willfully violated the laws of this state, or
- (D) does not make reasonably prompt payment of just losses and claims in this state or elsewhere,

the (Commissioner) may declare it ineligible. The (Commissioner) shall promptly mail notice of all such declarations to each surplus lines licensee.

In addition, an alien insurer qualifies under this paragraph if it maintains in the United States an irrevocable trust fund in either a national bank or a member of the Federal Reserve System, in an amount not less than \$1,500,000 for the protection of all of its policyholders in the United States and such trust fund consists of cash, securities, letters of credit, or of investments of substantially the same character and quality as those which are eligible investments for the capital and statutory reserves of admitted insurers authorized to write like kinds of insurance in this state. Such trust fund, which shall be included in any calculation of capital and surplus or its equivalent, shall have an expiry date which at no time shall be less than five years; or

- (2) in the case of any Lloyd's or other similar unincorporated group of alien individual insurers, maintains a trust fund of not less than \$50 million as security to the full amount thereof for all policyholders and creditors in the United States of each member of the group, and such trust shall likewise comply with the terms and conditions established in par. (1) for alien insurers; and
 - (3) in the case of an "Insurance Exchange" created by the laws of individual states, maintain capital and surplus, or the substantial equivalent thereof, of not less than \$15,000,000 in the aggregate. For Insurance Exchanges which maintain funds for the protection of all Insurance Exchange policyholders, each individual syndicate shall maintain minimum capital and surplus, or the substantial equivalent thereof, of not less than \$1,500,000. In the event the Insurance Exchange does not maintain funds for the protection of all Insurance Exchange policy holders, each individual syndicate shall meet the minimum capital and surplus requirements of Section 5 (B) (1).
- (C) Has caused to be provided to the (Commissioner) a copy of its current annual statement certified by such insurer; such statement to be provided no more than (6) six months after the close of the period reported upon and which is either
- (1) filed with and approved by the regulatory authority in the domicile of the non-admitted insurer; or
 - (2) certified by an accounting or auditing firm licensed in the jurisdiction of the insurer's domicile;
 - (3) in the case of an Insurance Exchange, the statement may be an aggregate combined statement of all underwriting syndicates operating during the period reported upon.

Section 8. Admitted Insurers - Waiver of Rate and Form Regulations.

An admitted insurer may issue, through any agent, broker or other representative, in the manner permitted under the insurance law for other policies of the same kind, insurance covering the particular insured for the amount of kind of insurance which exportable under Section 4, without regard to rate and form requirements otherwise applicable, if the agent, broker or other representative placing such insurance complies with the filing requirements of Section 9(A). Such insurance shall be subject to the premium tax applicable to such admitted insurer.

Section 9. Evidence of Insurance and Affidavits, Duty to File.

Within _____ days after the placing of any surplus lines insurance, each producing broker shall execute and each surplus lines licensee shall file:

- (A) a written report, which shall be kept confidential, regarding the insurance with the (Commissioner) including the following:
 - (1) the name and address of the insured;
 - (2) the identity of the insurer or insurers;
 - (3) a description of the subject and location of the risk;
 - (4) the amount of premium charged for the insurance; and
 - (5) such other pertinent information as the (Commissioner) may reasonably require; and
- (B) an affidavit on a standardized form furnished by the (Commissioner), as to the diligent efforts to place the coverage with admitted insurers and the results thereof. Such affidavit shall be open to public inspection.

Section 10. Surplus Lines Advisory Organizations.

- (A) Advisory surplus lines organization of surplus lines licensees may be formed to:
 - (1) facilitate and encourage compliance by its members with the laws of this State and the rules and regulations of the (Commissioner) relative to surplus lines insurance,
 - (2) provide means for the examination, which shall remain confidential, of all surplus lines coverages written by its members to determine whether such coverages comply with such laws and regulations.

- (3) communicate with organizations of admitted insurers with respect to the proper use of the surplus lines market, and
 - (4) receive and disseminate to its members information relative to surplus lines coverages.
- (B) Every such advisory organization shall file with the (Commissioner)
- (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation.
 - (2) a copy of its by-laws, rules and regulations governing its activities,
 - (3) a current list of its members,
 - (4) a resident of this state upon whom notices or orders of the (Commissioner) or processes issued at his direction may be served, and
 - (5) an agreement that the (Commissioner) may examine such advisory organization in accordance with the provisions of this Section.
- (C) The (Commissioner) shall, at least once in (insert number) years, make or cause to be made an examination of each such advisory organization. The reasonable cost of any such examination shall be paid by the advisory organization upon presentation to it by the (Commissioner) of a detailed account of each cost. The officers, managers, agents and employees of such advisory organization may be examined at any time, under oath, and shall exhibit all books, records, accounts, documents or agreements governing its method of operation. The (Commissioner) shall furnish two copies of the examination report to the advisory organization examined and shall notify such organization that it may, within 20 days thereof, request a hearing on the report or on any facts or recommendations therein. If the (Commissioner) finds such advisory organization or any member thereof to be in violation of this Act, he may issue an order requiring the discontinuance of such violation.
- (D) By order of the (Commissioner) a surplus lines licensee may be compelled to join an advisory organization as a condition of continued licensure under this Act.

DRAFTING NOTE: Paragraph (D) should be included only if it is in accord with the existing law and public policy of the state.

Section 11. Evidence of the Insurance—Changes--Penalty.

- (A) Upon placing surplus lines insurance, the surplus lines licensee shall promptly deliver to the insured or the producing broker the policy, or if such policy is not then available, a certificate as described in subsection 4, cover note, binder or other evidence of insurance. The certificate, as described in subsection 4, cover note, binder or other evidence of insurance shall be executed by the surplus lines licensee and shall show the description and location of the subject of the insurance, coverages including any material limitations other than those in standard forms, a general description of the coverages of the insurance, the premium and rate charged and taxes to be collected from the insured, and the name and address of the insured and surplus lines insurer or insurers and proportion of the entire risk assumed by each, and the name of the surplus lines licensee and the licensee's license number.
- (B) No surplus lines licensee shall issue or deliver any evidence of insurance or purport to insure or represent that insurance will be or has been written by any eligible surplus lines insurer, or a non-admitted insurer pursuant to Section 6, unless he has authority from the insurer to cause the risk to be insured, or has received information from the insurer in the regular course of business that such insurance has been granted.
- (C) If, after delivery of any such evidence of insurance there is any change in the identity of the insurers, or the proportion of the risk assumed by any insurer, or any other material change in coverage as stated in the surplus lines licensee's original evidence of insurance, or in any other material as to the insurance coverage so evidenced, the surplus lines licensee shall promptly issue and deliver to the insured or the original producing broker an appropriate substitute for, or endorsement of the original document, accurately showing the current status of the coverage and the insurers responsible thereunder.
- (D) As soon as reasonable possible after the placement of any such insurance, the surplus lines licensee shall deliver a copy of the policy or, if not available, a certificate of insurance to the insured or producing broker to replace any evidence of insurance theretofore issued. Each certificate or policy of insurance shall contain or have attached thereto a complete record of all policy insuring agreements, conditions, exclusions, clauses, endorsements or any other material facts that would regularly be included in the policy.

(E) Any surplus lines licensee who fails to comply with the requirements of this section shall be subject to the penalties hereinafter provided.

(F) Every evidence of insurance negotiated, placed or procured under the provisions of this Act issued by the surplus lines licensee shall bear the name of the licensee and the following legend in 10 point type: "This is evidence of insurance procured and developed under the (insert state) Surplus Lines Laws. It is NOT covered by the (insert citation of guaranty fund statute)."

Section 12. Licensee's Duty to Notify Insured.

No contract of insurance placed by a surplus lines licensee under this Act shall be binding upon the insured and no premium charged therefore shall be due and payable until the surplus lines licensee shall have notified the insured in writing, a copy of which shall be maintained by the licensee with the records of the contract, available for possible examination, that

(A) the insurer with which the licensee places the insurance is not licensed by this state and is not subject to its supervision and

(B) in the event of the insolvency of the surplus lines insurer, losses will not be paid by the state insurance guaranty fund.

Nothing herein contained shall nullify any agreement by any insurer to provide insurance."

Section 13. Surplus Lines Insurance Valid.

Insurance contracts procured under this Act shall be valid and enforceable as to all parties.

Section 14. Effect of Payment to Surplus Lines Licensee.

A payment of premium to a surplus lines licensee acting for a person other than himself in negotiating, continuing, or reviewing any policy of insurance under this Act shall be deemed to be payment to the insurer, whatever conditions or stipulations may be inserted in the policy or contract notwithstanding.

Section 15. Licensing of Surplus Lines Licensee.

(A) No agent or broker licensed by the state shall procure any contract of surplus lines insurance with any non-admitted insurer, unless he possesses a current surplus lines license issued by the (Commissicner).