

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 8672

2619 SLC SB 172 (FILE 1) - (FILE 2)

MEMORANDUM

TO: Dale Cheek, Director
Wage & Hour Division
Department of Labor

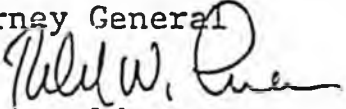
DATE: October 11, 1978

FILE NO:

TELEPHONE NO:

FROM: Avrum M. Gross
Attorney General

SUBJECT: Performance of Public
Construction Projects by
Municipalities; A.G. File
No. J-66-195-79

By: 
Ronald W. Lorensen
Assistant Attorney General

This is in response to your recent request for our advice as to whether municipal governments may properly carry out their public construction projects by using their own employees under a "force-account" system which utilizes private contractors, if at all, solely to provide overall "hands-in-pocket" management and supervision of the project. Also, if municipalities may perform their own public construction in this manner, you wonder whether they are subject to the provisions of AS 36.05, relating to the payment of prevailing wages on public construction contracts.

As we understand the situation about which you are inquiring, at least one organized borough in the state does not carry out its public construction projects by hiring private construction contractors to perform all phases of the work and complete the project. Instead, it hires private contractors to perform only the management and supervisory functions necessary to accomplish the project for the borough, but requires that the contractor utilize borough employees to actually do the construction work. We see no legal impediment to a borough doing all or any portion of its public construction projects on its own in this manner.

As to whether AS 36.05 applies to a borough which accomplishes its public construction projects by use of its own employees under a "force account" system, we think the answer is clearly that it does not. AS 36.05.010, which establishes the scope of the requirement of payment of prevailing wages under AS 36.05, speaks only in terms of the duty of "contractors" and "sub-contractors" who perform work on public construction in the state. It does not state that political subdivisions performing such work must pay prevailing wages. Nor does it state that all employees working on public construction projects are entitled to be paid in accordance with prevailing wages. Thus, while it appears that AS 36.05 would apply to a municipality's contractor for management services on a public construction project, it does not apply to the municipality in carrying out such projects with its own employees.

SB 172 TITLE & SPONSOR SUMMARY
AMENDED TITLE: SSSB 172
AN ACT RELATING TO WAGE RATES ON PUBLIC CONSTRUCTION

14:15 5/22/84 PAGE 1 OF 2

PRIME SPONSOR: SACKETT.
CO-SPONSORS:

CURRENT STATUS: 4/22/83 IN (S) LABOR & COM REFERRAL: FINANCE
SB 172 SENATE ACTION 14:15 5/22/84 PAGE 2 OF 2
DATE SEQ PAGE LEGISLATIVE ACTION

04/22/83 01 0784 FIRST READING -- COMMITTEE REPORTS
LABOR & COMMERCE
FINANCE
RULES

*** ** ** ** **

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

APR 19 1983

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

April 19, 1983

Hon. John C. Sackett
Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: Applicability of AS 36.-
05.010 -- 36.05.110 to
forced-accounting
Our file no.: 366-554-83

Dear Senator Sackett:

This letter responds to your inquiry regarding whether the prevailing wage stipulations required under the Little Davis-Bacon Act, AS 36.05.010 -- 36.05.110, apply where a municipality or a Rural Education Attendance Area (REAA) use their own employees to perform work on a public works project. It is our view that municipalities or REAAs which use their own employees on a public works project, a practice commonly referred to as "forced-accounting," are not required to pay prevailing wages. Where state funds are involved, however, other statutory provisions may limit the instances when forced-accounting is appropriate.

The prevailing wage requirement is set forth in AS 36.-05.010, which provides in pertinent part:

WAGE RATES ON PUBLIC CONSTRUCTION. A contractor or subcontractor who performs work on public construction in the state, as defined by AS 36.95.010(3), shall pay not less than the current prevailing rate of wages for work of a similar nature in the region in which the work is done.

The statute plainly applies only to contractor or subcontractors under contract for public works. Where the state or a political subdivision uses its own employees to perform public construction, the Little Davis-Bacon Act does not apply. 1978 Inf. Op. Atty Gen. (Oct. 11; J66-195-79). See Annot. 18 A.L.R. 3d 944 (1968).

We have not discovered any case authority which imposes any limit on the authority of a public employer to force-account. We note, however, that courts which address the distinction drawn in a prevailing wage provision between public employees and those of a contractor justify the distinction due to the perceived benefits of public employment. The presumption, here, is that public employment is more permanent and offers an employee other economic advantages such as fringe benefits. See City of Monmouth v. Lorenz, 195 N.E.2d 661 (Ill. 1963) (inclusion of public employees in prevailing wage provision violated constitutional guarantee to equal protection). If, when a municipality or an REAA employs persons on a sporadic, project-by-project basis, the public employees do not obtain the advantages typically available through public employment, a court may conclude that forced-accounting cannot serve to circumvent prevailing wage requirements. See 1983 Inf. Op. Att'y Gen. (Mar. 11; 366-267-83) (Little Davis-Bacon Act applicable to certain designated grants). See also City and Borough of Sitka v. Construction and General Laborers Local 942, 644 P.2d 227 (Alaska 1982).

While a municipality or an REAA may construct a project through forced accounting without being subject to prevailing wage requirements, the more difficult inquiry is when forced-accounting is an available option. Where state funds are used, the general preference for the award of contracts through public bid is set forth in AS 35.15.010(a):

Except as provided in AS 36.98 and AS 44.33.-300, it shall be the general policy of the department to require the construction of all public works under bid contract. However, when the estimated cost of a construction project is less than \$100,000, or when it appears to be in the best interests of the state, the department may perform the work, notwithstanding any other provisions of law. A complete record shall be kept by the commissioner or the commissioner's designee of all transactions entered into under this section including names of employees involved in the transactions.

(Emphasis added.)

A municipality may request the assumption of "all or part of the [Department of Transportation and Public Facilities'] responsibilities relating to the planning, design and

construction of a public works project of the state that is to be located within the boundaries of the municipality and that would otherwise be construction in the manner provided by AS 35.15.-010." AS 35.15.080. Arguably among the assumed responsibilities is the responsibility to determine under AS 35.15.010 whether "it appears to be in the best interests of the state" for the department to perform the work, notwithstanding that the public work costs in excess of \$100,000. 1/

An REAA, in turn, may assume "the responsibilities relating to the planning, design and construction of a school or an education-related facility, located within the boundaries or operating areas of the...[REAA]." AS 14.11.020. 2/ Title 14, however, does not define the Department of Education's "responsibilities" which may be assumed by an REAA. 3/ Were the Department of Education to retain responsibility for the construction of a school project, the public bid requirements set forth in AS 35.15 would be applicable. Consequently, an REAA which assumes responsibility for a school project is subject to the preference for public bidding under AS 35.15.010.

1/ A countervailing argument is that only a state agency has the requisite breadth of perspective to make a determination of what is in the best interest of the state. For purposes of this opinion, we assume that the best interest determination is delegable. Moreover, it is a separate inquiry whether DOT/PF may by regulation limit the authority to force-account. See AS 35.15.080(f).

2/ Indeed, prior the adoption of ch. 92, SLA 1982, AS 35.15.080 also provided for the assumption of responsibility in a local public works project by both a municipality and an REAA. We note that other provisions in AS 35.15 which relate to an assumption by an REAA were not amended. In particular, we do not interpret AS 35.05.080(f) to impose an independent obligation for an REAA to pay prevailing wages to its own employees engaged in work on a public project.

3/ Presumably, an REAA also assumes the concomitant responsibility to determine whether forced-accounting would be in the public interest. See supra, note 2. We are advised that, as required by AS 14.11.020(d), the Department of Education is presently drafting regulations which relate to the assumption of departmental responsibilities.

We finally offer an observation regarding the flexibility of a municipality or an REAA to use its own employees on a public works project which costs in excess of \$100,000.

While a degree of deference would be due an administrative determination of when it is in the "public interest" to force-account rather than contract for services, we caution that an anticipated reduction in project costs may not, by itself, be a sufficient basis for that determination. The Alaska Supreme Court addressed an analogous claim in City and Borough of Sitka v. Construction and General Laborers Local 942, 644 P.2d 227 (Alaska 1982). Sitka had attempted to execute a timber sale contract separate from a dam construction contract subject to the Little Davis-Bacon wage stipulations. The separate timber sale contract allowed Sitka to maximize the value of the merchantable timber on the dam site. The court, however, rejected Sitka's attempt to enhance economic returns through the avoidance of contractual prevailing wage stipulations.

Sitka's position, in essence, invites the government to sever from a public construction bid offering any aspect of the endeavor which may have an unrelated profit incentive, such as the removal of a natural resource. Such a rule impermissibly enables a public agency to profit at the expense of workers engaged in activities instrumental to a public construction project.

644 P.2d at 233. The Sitka analysis suggests that a municipality or an REAA must articulate other considerations in support of a finding that force-accounting a particular project is in the best interests of the public.

We hope this responds to your concerns. Please feel free to contact us if you have any further questions on this matter.

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:

Jonathan B. Rubini
Jonathan B. Rubini
Assistant Attorney General

JBR:jb

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

March 11, 1983

Honorable Albert P. Adams
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Application of Little
Davis-Bacon Act
(AS 36.05) to designated
grants
Our file: 366-267-83

Dear Representative Adams:

You have requested our opinion whether construction contracts made by non-governmental entities which are financed by state-funded grants are subject to the provisions of the Little Davis-Bacon Act (AS 36.05) regarding payment of prevailing wages to employees working on public construction. You cite examples of grants made for a day care center, a "human services complex," and a public works facility. These grants were made by appropriations in which the grantees were specifically designated. In each case the grantee is a private non-profit corporation.

The grants to which you refer are commonly known as designated grants and are governed by the provisions of AS 37.05.316 (Grants to Named Recipients). Another category of designated grant which is used to construct capital improvements in unincorporated communities is an Unincorporated Community Grant under AS 37.05.317. Because an unincorporated community is not a legal entity and therefore lacks the capacity to receive and administer a grant of public funds, AS 37.05.317(2) authorizes the Department of Community and Regional Affairs to make the grant to a private non-profit corporation or federally recognized tribal council which is representative of the unincorporated community. We recently expressed our view that construction contracted out by such an organization for an unincorporated community with grant funds provided by the state under AS 37.05.317 is subject to the provisions of the Little Davis-Bacon Act. 1982 Inf. Op.

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Att'y Gen. (October 5) 1/ A third category of grants, Grants to Municipalities under AS 37.05.315, provides state funds for a variety of local projects and activities directly to established political subdivisions of the state. The requirements of Little Davis-Bacon clearly apply to construction projects contracted out under those grants.

You now ask whether construction contracted out by non-governmental entities with grants made under AS 37.05.316 are also subject to that Act. We conclude that the answer to your question will depend upon the nature of the particular project being carried out by the grantee. If the project or improvement involves the undertaking or provision of traditional government facilities, services, or activities it is covered by the Act, despite the non-governmental status of the entity contracting out the work. However, if the work contracted out is not like that traditionally carried out or provided by government, it is not covered by Little Davis-Bacon. In order to define the line between those projects covered by the Act and those which are not, we recommend the adoption by the Department of Labor of regulations setting out the standards applicable to determining whether projects undertaken by affected grantees will be considered as covered or non-covered. By adopting regulations the department will put those entities on notice of their potential obligations under the Act and help assure uniform and consistent determinations of coverage or non-coverage. Our reasoning follows.

The fundamental requirement of the Little Davis-Bacon Act is set out in AS 36.05.010 which provides, in pertinent part, as follows:

Sec. 36.05.010. WAGE RATES ON PUBLIC CONSTRUCTION. A contractor or subcontractor who performs work on public construction in the state, as defined by AS 36.95.010(3), shall pay not less than the current prevailing wages for work of a similar nature in the region in which the work is done.

1/ We note that our October 5, 1982 opinion incorrectly referred to grants made under AS 37.05.315, which deals with grants to organized municipalities. This was obviously a typographical error as the problem which it addressed involved an Unincorporated Community Grant, which is covered by AS 37.05.317.

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Representative
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"Public construction" is defined in AS 36.95.010(3) as follows:

(3) "public construction" or "public works" means the on-site field surveying, erection, rehabilitation, alteration, extension or repair, including painting or redecorating of buildings, highways or other improvements to real property under contract for the state, a political subdivision of the state, or a regional school board with respect to an educational facility under AS 14.08.161;

The answer to your question essentially revolves around whether work carried out with public funds by a designated grantee is "public construction" within the meaning and purpose of the Little Davis-Bacon Act. This is a question which has yet to be addressed by the Alaska courts and, while we believe the courts would follow the analysis which we apply here, we obviously cannot guarantee that our view will ultimately be adopted by them. 2/

In 1982, the Alaska Supreme Court adopted an expansive view of the concept of "public construction" under Little Davis-Bacon. City and Borough of Sitka v. Construction and General Laborers Local 942, 644 P.2d 227 (Alaska 1982). In the Sitka decision, the court expressly stated that "[t]he fundamental purpose of Little Davis-Bacon is to assure that employees engaged in public construction receive at least the prevailing wage." It went on to emphasize that "[t]he focus of the act, quite clearly, is to the benefit of the employees, not the contracting principals." Sitka, 644 P2d at 232.

2/ It is particularly important to keep in mind that our view may or may not be adopted by the courts where, as here, the statutes with which we deal create certain rights and obligations on non-governmental third parties (e.g., contractors and workers) which, unlike state agencies, are not bound to adhere to the advice of the Attorney General. That precise situation arose in City and Borough of Sitka v. Construction and General Laborers Local 942, 644 P.2d 227 (Alaska 1982) where the Alaska Supreme Court expressly rejected an earlier written determination by the Attorney General's Office that the Act did not apply to the facts of that case.

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In deciding that the contract at issue in Sitka was subject to Little Davis-Bacon, the Supreme Court expressly rejected the argument that it was not covered because it was not in the form of a traditional construction contract. The City of Sitka had argued that the contract should be viewed in isolation as a timber sale contract, unconnected with the contract for the construction of a dam, even though the timber to be sold and cleared under that contract was to be removed in order to make the site suitable for construction of the dam. The court refused to follow Sitka's argument, however, saying that to do so "unduly exalts form over substance." Sitka, 644 P2d at 232.

Similarly, we believe that the court would reject the application of rigid tests which would only inquire whether a particular project was owned by a governmental entity or whether the project was being carried out under contract with a governmental entity. ^{3/} Certainly, in most situations it is to be anticipated that a "public work" will be owned by a governmental entity. However, nothing in Little Davis-Bacon expressly requires governmental ownership of the project. While ownership may often be indicative of the "public" nature of a particular project, we do not believe it is necessarily determinative. Similarly, the Act is not limited to projects under contract with the state or a political subdivision. In fact, the statute, at AS 36.95.010(3) expressly defines "public construction" as projects under contract for the state or a political subdivision, indicating that the legislature clearly had in mind application of a broader test for Little Davis-Bacon coverage than a simple mechanical inquiry into the status of the contracting entity.

^{3/} A rigid application of strict rules for determining whether a project is "public construction" could afford the opportunity to circumvent or evade Little Davis-Bacon simply by funding construction of projects such as roads, fire halls, police stations, or school buildings through designated grants. We do not believe our Supreme Court would permit such a result. "'While the ingenuity of man is apparently limitless, the court has held with unvarying regularity that one may not do by indirection what is forbidden directly.'" Sheldon Jackson College v. State, 599 P.2d 127, 132 (Alaska 1979), quoting Wolman v. Essex, 342 F.Supp. 399, 415 (S.O. Ohio 1972).

As in the Sitka case, the test to be applied in determining whether a particular project is "public construction" subject to the provisions of the Act is a functional one which inquires into the nature of the project under contract and its relationship to the purposes of Little Davis-Bacon. We believe that test is one which looks, among other things, to the nature of the project itself to determine whether it is the kind of project or activity which is traditionally undertaken by government. If and if public monies are utilized, the Act applies, irrespective of questions of "ownership" and contractor status.

We arrive at our conclusion based both on our reading of the Sitka case and because of the similar approach taken by the U.S. Department of Labor in applying the federal Davis-Bacon Act (40 U.S.C. § 276a, et seq.). The definition of "public building" or "public work" for purposes of the federal Act is set out at 29 CFR § 5.2(h) and provides, in pertinent part, as follows:

(h) The term "public building" or "public work" includes building or work, the construction, prosecution, completion, or repair of which, as defined above, is carried on directly by authority of or with funds of a Federal agency to serve the interest of the general public regardless of whether title thereof is in a Federal agency.

The Alaska Supreme Court expressly stated in Sitka that, because Little Davis-Bacon is modeled after the federal Act and because the federal regulations implementing that Act were adopted before AS 36.95.010(3) defining "public construction" became law in 1972, it "will look to the federal regulations construing Davis-Bacon for assistance in interpreting Little Davis-Bacon." Sitka at 231, n.8.

The test which we have stated, while relatively simple to set out, may prove difficult to apply to some kinds of projects. Obviously, some projects such as roads, airports, sewers, municipal buildings and school buildings are traditionally governmental in nature. Others, such as construction of women's shelters, day care centers, and animal shelters, while serving a "public purpose", 4/ have probably not traditionally been con-

4/ Of course, any expenditure of state funds, whether through a governmental entity or a private organization must be made for a "public purpose." Article IX, sec. 6, Alaska Constitution.

Honorable Albert P. Adams
Representative
366-267-83

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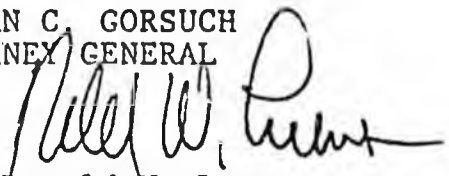
structed by government. However, there will undoubtedly remain a "gray area" of projects which cannot be readily characterized as either governmental or non-governmental like health care facilities and power generation and distribution facilities. These kinds of projects are sometimes provided by government, sometimes by private entities, and sometimes by both in the very same community. In order to clarify the gray area and provide a basis for entities who receive designated grants and who may therefore be subject to Little Davis-Bacon to determine whether their project is subject to the requirements of the Act, we recommend to the Department of Labor, by copy of this letter to Commissioner Robison, that it adopt regulations setting out the kinds of tests or factors which it will apply in enforcing the Act. ^{5/} By doing so, that department will assure that designated grantees have notice of their potential obligations under Little Davis-Bacon and that determinations made by it are uniformly and consistently applied.

If you have any further questions regarding the scope of Little Davis-Bacon, please let us know.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:


Ronald W. Lorensen
Deputy Attorney General

RWL:vrh

cc: Jim Robison
Commissioner
Department of Labor

^{5/} The Alaska Supreme Court expressly acknowledged Labor's authority, under AS 36.05.030, to determine whether a contract is subject to Little Davis-Bacon in Sitka at 229. The kinds of factors which might be applied could include, among others, ultimate ownership of the facility, who the intended operator and/or user will be, and who will bear the costs of operating and maintaining the facility.

Officials: Repeal may cut costs, but threatens jobs

By DEBBIE REINWAND ROSE
Empire Staff Reporter

Getting more buildings for the buck is the aim of a bill introduced by Sen. John Sackett, R-Ruby, but that bill could end up taking jobs away from Alaska workers, union officials claim.

The bill would repeal the Davis-Bacon Act in Alaska, a 1931 federal act which states may or may not enact. The goal of the act, which was passed during the Depression, was to protect local laborers from contractors who were able to submit low bids by using transient, low-paid workers.

The act now "seems to inflate capital constructions costs," Sackett said.

One provision of the bill which Sackett takes issue with is the 30-percent rule, which provides that workers in a given job classification receive the same wage and benefits.

Under the 30-percent rule, the prevailing wage is based on the average salary of 30 percent of the workers. For example, if one painter made \$8.74 per hour, two more made \$6.25, another made \$9, and three more received \$12.40 an hour, the three highest-paid painters "made up more than 30 percent of the total, so \$12.40

became the prevailing wage," Sackett's statement said.

In a prepared release, Sackett said the rule "actually increases construction costs."

Alaska has never used the 30-percent rule, but a "standard average," said Labor Standards Deputy Director Don Wilson.

Since last year, the prevailing construction wage has been based on a 51-percent rule, which is based on the average salaries of a majority of the workers, Wilson said.

"If we are not able to find 51 percent of the workers at a given rate, then we use an

arithmetic mean, by taking all the wages, throwing out the top five percent and the low five percent, adding up the remainder and dividing it to come up with the prevailing wage," he said.

This is a routine procedure, and has been adopted by the federal government, said Wilson.

Sackett, co-chairman of the Senate finance panel, claims the Davis-Bacon Act increases wages on construction projects, particularly in areas which do not use much union labor.

"Paying realistic local wages would not only reduce the costs of a project, but

would increase the amount of funds available for other necessary capital projects," he said.

However, Jim Wakefield, assistant business manager of Laborers Local 942, said repeal would take jobs away from Alaska contractors, and has proven not to reduce costs significantly.

"This would be a terrible travesty to the working man in the state. With the repeal of Davis-Bacon, you'll have contractors from down south bidding low on jobs in Alaska, and bringing their whole crew up here at \$4 and \$5 an hour each," he said.

"While the state may be able to get

cheaper labor, the quality of the buildings won't be the same at that rate. There won't be any requirement to pay the workers anything other than minimum wage," Wakefield said.

In most areas of Alaska, the prevailing wage is the same as union scale, which is agreed to by the Associated General Contractors. "This is something that is worked out between management and the union. Management has to make money, too, so you won't see them cheating themselves," he said.

Wakefield refutes any claims that construction workers are overpaid.

It has been proven that repeal of the Davis-Bacon Act does not produce lower costs, Wakefield said. In 1971, then-President Richard Nixon suspended the act. He hopes it would cause a major construction price reduction.

"In reality, there was no such reduction. The overall decrease was .6 of 1 percent."

Ed. Eliason

"HISTORICAL OVERVIEW OF THE DAVIS-BACON AND RELATED ACTS"

The Davis-Bacon Act is one of the oldest American labor laws and was the first federal law enacted to regulate the wages of non-government workers. Like most early federal labor laws, the Act was preceded by various state statutes. Kansas, for example, had enacted the first prevailing wage law for state construction projects in 1898. Federal congressional hearings were held as early as 1898 although legislation did not result until 1931. Today, all but 10 states have enacted prevailing wage laws governing state construction projects.

The principal impetus for government regulation of wages for workers employed on public construction projects was the economic and social conditions of the 1930's. During the Depression, the national conscience was aroused by the effect of widespread unemployment on the wages of workers. While the competition for limited markets forced employers to cut labor costs, the scarcity of work created an oversupply of labor that resulted in low wage rates. The absence of job opportunities further increased public reliance upon federal construction as a source of employment at a time when the federal government was required to award its contracts to the lowest bidder. This requirement prevented federal contracting agencies from dictating that successful bidders pay their employees wages comparable to those paid for similar labor in private industry in the same area as the government projects under construction. Some successful bidders took advantage of this situation by "selfishly import[ing] labor from distant localities and...exploit[ing] this labor at wages far below local wage rates." Local workmen were unable to compete with migratory laborers, and qualified local contractors found it impossible to compete with outside contractors who based their estimates for labor costs upon the low wages paid to imported laborers.

The Davis-Bacon Act, enacted on March 3, 1931, was designed to curtail such unscrupulous practices among government contractors during a decade in which public works were on an upswing and economists and politicians were particularly wary of depressed labor markets. The Act was also designed to prohibit wage differentials from becoming a major competitive advantage in bidding on government construction contracts, thereby insuring that the economic power of government as an employer would not contribute to a further depression of local markets. To accomplish these goals, the federal Act required government contractors to pay their "laborers and mechanics" the prevailing private industry wage rates.

The compulsory nature of the Act's prevailing wage rate provision was emphasized throughout the 1931 congressional debates in Davis-Bacon Legislation. Because the Act mandated that under all covered contracts the contractor pay the prevailing wage rate, the only variable was the exact rate to be paid. In the event of a dispute concerning the applicable wage rate, the government contracting officer was to attempt to adjust the rate in accordance with the character of the work performed and the locality in which it was performed. If the contracting officer could not resolve the dispute, the matter was then to be referred to the Secretary of Labor for a conclusive determination.

In the 50 years since the enactment of the federal Davis-Bacon Act, a series of executive orders and congressional amendments have generally broadened its scope and strengthened its impact. Additionally, more than 80 other federal laws relating to prevailing wages have been passed during this period, covering a wide range of federal projects and activities. The amendments to the Davis-Bacon Act as well as the variety of federal legislation requiring prevailing wages to be paid serve to indicate the continuing concern of Congress to preserve prevailing wage standards for government contract work.

In Alaska, legislation requiring the payment of prevailing wages on public construction work has also been in effect since 1931. The original Alaska prevailing wage laws were passed by the territorial legislature on an emergency basis, presumably in direct response to the passage of the federal Davis-Bacon Act by the U.S. Congress two months earlier. The Alaska version was introduced as Senate Bill 69 by Senator Lomen of Nome and was swiftly enacted into law effective April 29, 1931 (SLA 1931, ch. 69). Unfortunately there appears to be no written record on any legislative debate or committee hearings on the proposed Alaska legislation. The prevailing wage provisions were later included in the 1933 and 1949 compilations of Alaska law and, upon statehood, were carried over into state law and are now codified at AS 36.05.010-.110. In the years since the enactment of the original prevailing wage laws in Alaska there have been periodic amendments which further define the scope of the Little Davis-Bacon Act and establish enforcement procedures, largely in response to similar changes in federal law.

In addition to the legislative history, both federal and Alaska courts have had occasion to interpret the basic purposes and policies underlying prevailing wage legislation. In a leading federal case, the U.S. Supreme Court recognized the important wage protection purpose of the Davis-Bacon Act: "The language of the Act and its legislative history plainly show that it was not enacted to benefit contractors, but rather to protect their employees from substandard earnings by fixing a floor under wages on Government projects." U.S. v. Binghamton Construction Co., 347 U.S. 171, 177 (1953). The Alaska Supreme Court has quoted this language in at least two separate cases involving Alaska's Little Davis-Bacon Act, noting that the Alaska statutory scheme is closely patterned after the federal Act. City and Borough of Sitka v. Construction and General Laborers Local 942, 644 P.2d 227, 231-33 (Alaska 1982); Fowler v. City of Anchorage, 583 P.2d 817, 821-22 (Alaska 1978). In reviewing the policies underlying the Little Davis-Bacon Act, the Alaska Supreme Court has further stated: "The fundamental purpose of Little Davis-Bacon is to assure that employees engaged in public construction receive at least the prevailing wage. The focus of the Act, quite clearly, is to the benefit of the employees, not the contracting principals." City and Borough of Sitka, supra, at 232. From these judicial statements, it is apparent that both the federal and state prevailing wage laws have as their primary objective the protection of local workers on government projects by establishing a required minimum wage in accordance with that prevailing in the area where the work is done. Both the legislative history and judicial interpretation of prevailing wage legislation strongly suggest that this primary objective is as fundamental and vital today as it was in 1931 when the legislation was first enacted.

MEMORANDUM

April 6, 1983

SUBJECT: Little Davis-Bacon Act
(Work Order No. 13-1187)

TO: Senator John C. Sackett

FROM: Thomas A. Sofo *TAS*
Legislative Counsel

I just received a response from Bill Walker of the National Council of State Legislatures. There are 37 states have a version of the Little Davis-Bacon Act presently on their books. The 13 states which do not have a Little Davis-Bacon Act are Alabama, Arizona, Florida, Georgia, Iowa, Mississippi, North Carolina, North Dakota, South Carolina, South Dakota, Utah, Vermont, and Virginia. Of those 13 states Arizona and Florida repealed their statutes in 1980 and 1979 respectively, while Utah repealed their Little Davis-Bacon Act in 1981. Of potential interest to you is the fact that the legislature's of both Colorado and Idaho repealed their respective Little Davis-Bacon Acts in 1981 but in both instances the repeal was vetoed by the governor and the legislature in each instance was unable to override the governor's veto.

Let me know if I can be of any further assistance to you on this project.

TAS:ljb



ALASKA

NUSHAGAK ELECTRIC CO-OPERATIVE, INC.

P. O. BOX 197 . DILLINGHAM, ALASKA 99576 . AREA CODE (907) 842-5251

March 24, 1983

Senator Bob Mulcahy
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: SB 172 by Sackett

Dear Senator Mulcahy:

We urgently recommend this bill to your favorable attention because it is a vehicle for correcting deficiencies in AS 36.05.

As this statute presently exists, all wage rates on public construction projects funded by grants administered by Community and Regional Affairs (and possibly other state agencies) to municipalities, public non-profit corporations and other community interest groups are mandated by a Department of Labor scale titled "Laborers & Mechanics Minimum Rates of Pay" dated 10/15/82. Not all communities are geared up to or financed well enough to pay these wages and they seriously distort other wage and salary plans existing in the different areas including the fueling of unnecessary inflation.

For example, a lineman in Dillingham would have to be paid a basic hourly rate of \$25.15 per hour and a cable splicer rate would be \$26.90 per hour. These rates represent an approximate 25% increase over Nushagak Electric's prevailing wage rates which are among the highest in Dillingham. Our perception of existing AS 36.05 is that these rates are probably geared to large contractors' benefit and promoted by the unions in the rail belt who are eager to see their constituents get the construction jobs in the rural as well as the urban centers of the state.

As you are no doubt well aware, the rural economy does not enjoy the stability that is generally prevalent in the railbelt or South eastern areas of the state and we must compensate for this fact of life by doing things ourselves to realize efficiencies not always found elsewhere.

In 1982, the legislature approved a grant of \$539,000 to Nushagak Electric which was to be administered by Community and Regional Affairs to extend a waste heat supply system to the high school, court house, Southwest Regional School District and to State Shop facilities. The mandated wage rates make it very difficult to perform the project in an efficient manner because these rates are significantly higher than local rates and the project cost was based on local wage rate levels. Therefore, the

scope of the project will have to be reduced if NEC is forced to adopt wage rates mandated by the Department of Labor. This concept appears to be a very poor allocation of resources.

We would recommend that SB 172 as written be slightly amended to read as follows:

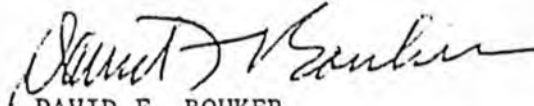
SEC. 36.05.130 APPLICABILITY OF CHAPTER
This chapter does not apply to public construction under contract to a municipality having a population of 5,000 or less or to a public non-profit corporation or to a public utility as defined in AS 42.05 operating in a community of 5,000 or less and this section is to be effective for all contracts executed after 1/1/83.

Since Nushagak Electric Co-operative, Inc. has not signed the contract with Community and Regional Affairs as of this writing, I included the effective date of 1/1/83 in my suggested change of SEC. 36.05.130 above in order to be covered under any possible change in this law.

We would appreciate your attention to this matter because we feel that the concept of a high standardized state wage rate mandated by law is not in the best interest of especially the rural communities that have generally made a practice of maximizing their resources in the most efficient manner possible.

Thank you.

Yours very truly,


DAVID F. BOUKER
Manager

DFB:ka

AMENDMENTS TO "LITTLE BACON-DAVIS ACT"

WHEREAS Title 36 of the Alaska Statutes known as the "Little Davis-Bacon Act" is intended to assure that workers receive fair compensation on construction projects by state and local governments and to avoid undercutting of local wages by importing outside workers; and

WHEREAS the prevailing wage for local workers varies substantially throughout the state; and

WHEREAS the present laws actually encourage importing construction firms and labor from the large populations centers of the state and may artificially inflate the costs of construction for local governments beyond actual prevailing costs, which exacerbates local unemployment problems; and

WHEREAS local public construction is primarily a function of local government and administration and policy should be established at a local level to the greatest extent possible;

NOW THEREFORE BE IT RESOLVED that the Alaska Municipal League urges amendments to Title 36 consistent with the premises stated above as follows:

1. To provide for local government control in establishing prevailing wages, based on local needs and conditions.
2. To clarify the definition of public construction and, in particular, that public construction does not include projects of non-profit corporations funded by pass-through grants or projects for maintenance, repair, or minor construction.

Adopted at the 32nd Annual Local Government Conference of the Alaska Municipal League on November 13, 1982.

Nulato City Council

Nulato, Alaska 99765
Phone: (907) 898-8001

April 26, 1983

Senator John Sackett
Alaska State Legislature
Pouch V
Juneau, AK 99811

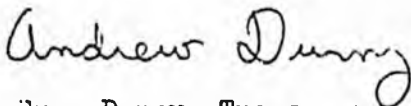
Dear Senator:

This is to let you know that we support Legislation (SSSB 172), to repeal the Little Davis-Bacon Act in Alaska (SSSB 172).

Almost all capitol projects of the City of Nulato are funded directly or indirectly by the State. Declining state revenue and increasing difficulty of acquiring state funding make it more important to stretch each available dollar as far as it will go. In attempting to achieve this goal of effective and efficient use of state funding, the City of Nulato finds the Little Davis-Bacon Act not only counter-productive but harmful as well, since it would reduce cost-efficiency on capitol projects and create an inflated wage scale on other programs as well. The City of Nulato feels that it would be almost impossible to provide capitol improvements as well as other municipal programs if union-level wages are mandatory. Projects such as water and sewer system, road improvements and public facilities could be threatened. In effect, necessary projects and programs that would benefit all citizens of Nulato could be threatened by an attempt to benefit a limited number of employees.

We feel that the Little Davis-Bacon Act does not allow for efficient use of available funds (not just for the City of Nulato but for all recipients of State funds). We feel that if the Little Davis-Bacon Act is repealed, we could provide a much more efficient use of available State funds, while still paying a fair wage to employees. The more efficiently and effectively we can spend available State funds, the more will be left available for future spending; at the same time, if funds can be effectively spent, the need for additional funds may actually decline. For these reasons, we ask for your support in repealing the Little Davis-Bacon Act in Alaska.

Thank you,



Andrew Durny, Treasurer
City of Nulato

STATEMENT OF ALASKA NATIVE BROTHERHOOD, ROBERT WILLARD, EXECUTIVE VICE PRESIDENT, RE: TITLE 36 - ALASKA STATUTES.

The Alaska Legislature has before it Senate Bill No. 172 and House Bill No. 378, "An Act relating to wage rates on public construction," or the so-called "Little Davis-Bacon Act."

The Alaska Native Brotherhood is the recipient of a State appropriation in the amount of one million dollars (\$1 Million) to construct a Juneau Pilot Project - Community Building. Upon notification that the Governor would sign the appropriation measure into law, the ANB immediately proceeded with development planning. In this process encounter came to Title 36 of the Alaska Statutes namely the Little Davis-Bacon Act. (hereinafter Davis-Bacon).

If the ANB Project were to fall under the interpolation and application of Davis-Bacon, it goes without question that the costs would increase by 25 - 30%. A value engineering report by qualified consultants have confirmed this reality.

In our opinion, and that of our consultants, if strict application of Davis-Bacon had been applied, this project would not have been feasible, because of the escalated costs.

It should be made clear that the Alaska Native Brotherhood, or its affiliates, is not opposed to unions -- or organized labor. There are some union or contractor practices which we are not in total agreement, but in the overall sense, the ANB is not necessarily averse to unions.

Upon reflection of the ANB project, and that of some projects which have been administered by the Tlingit and Haida Regional Housing Authority over the past ten years, it can be shown that full application of the Little Davis-Bacon Act resulted in increased construction costs

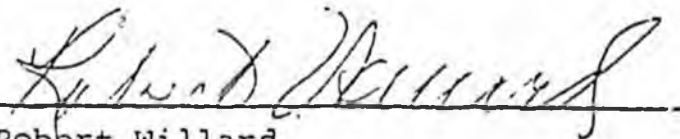
and created artificial costs of labor, thus decreasing the number of housing units that could have been built. Tlingit and Haida administrators estimate that by virtue of full application of the Davis-Bacon Act 23 - 27% more housing units could have been built. That equivalates to approximately one hundred and fifty (150) more families that could have had homes. The imposition of Davis-Bacon interpolated and applied to the rural areas have resulted in the creation of artificial costs of labor.

It is not the intent of the ANB to move towards the minimum wage. It is our concern that the "prevailing wage" as set by the Department of Labor in the populated areas and, as applied to the adjacent rural proximity of that urban center may not be reflective of the fair market value of labor and skilled services in the broad spectrum of enterprise in Alaska.

Moreover, this reality may be influenced by special interest groups such as unions and/or organized general contractors, and artificial influences such as labor-related requirements imposed by this legislation.

The Alaska Native Brotherhood, and its affiliates, urge passage of Senate Bill 172 and House Bill 378 thereby repealing Alaska Statutes 36.05.

Signed:



Robert Willard
Executive Vice President
Alaska Native Brotherhood
318 W. Willoughby Avenue
Juneau, Alaska 99801

BUS: (907) 586-2049
586-3301

TELEGRAM

BEANS COUNCIL MEMBER
MOUNTAIN VILLAGE

2222S IDA MOUNTAIN VILLAGE ALASKA 76 04-28 1016A ADT 1983 APR 28 PM 12 50

PNIS SEN JOHN SACKETT

POUCH V 2044

JUNEAU AK 99811

DEAR SENATOR SACKETT,

I STRONGLY SUPPORT YOUR SPONSORSHIP OF S.170, WHICH WOULD, IF SUCCESSFUL, REPEAL THE "LITTLE DAVIS/DACON" ACT IN ALASKA. AS A NEED FOR STATE OF ALASKA FUNDING FOR THE CITY OF "MOUNTAIN VILLAGE" CAPITAL PROJECTS CONTINUE TO INCREASE FROM YEAR TO YEAR, I SEE CLEARLY THE NEED TO REDUCE LABOR COSTS. AS LABOR COSTS ARE CUT I FORESEE THE INCREASE IN THE FUNDING OF OTHER PROJECTS. SINCERELY,

ED BEANS COUNCIL MEMBER

CITY COUNCIL OF MOUNTAIN VILLAGE

APR 29 1983



APR 28 1983

THE CITY OF HAINES, ALASKA
P.O. BOX 576
HAINES, ALASKA 99827
(907) 766-2231

In Reply
Refer To: April 26, 1983

Senator John C. Sackett
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: SSSB 172

Dear Senator Sackett:

On behalf of the City of Haines, I would like to offer our support of your sponsored bill repealing the little Davis-Bacon Act in Alaska. In concurrence with your views we feel this Act has resulted in inflated construction costs at far greater consequences to smaller, rural cities than to the large metropolitan areas.

Sincerely,

A handwritten signature in cursive script that reads "Darrell Maple".

Darrell Maple
City Administrator
CITY OF HAINES

DM/ktg
cc: Governor Sheffield
Senator Eliason
Representative Goll

APR 27 1983

MANLEY HOT SPRINGS COMMUNITY ASSOCIATION

MANLEY HOT SPRINGS, ALASKA 99756

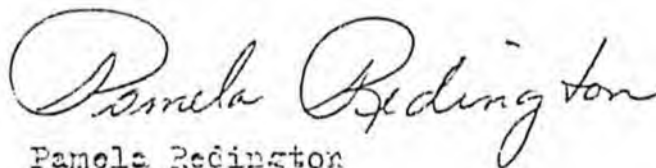
April 24, 1983

Hon. John Sackett
Pouch V
Jenaru, Alaska 99811

Dear Sen. Sackett

The Manley Hot Springs Community Association Board voted to write you in regard to Title 36, Davis-Bacon wage requirements which creates a hardship for our state funded community projects. Not only does this regulation upset our local economy, it also makes it difficult to complete local projects within budgetary limitations. We recently became aware of requirements when signing our SB 168# contracts. There was no knowledge of the Title 36 requirements when we first wrote our project proposals and budgets. Your consideration and assistance in this matter this session will be greatly appreciated.

Respectly



Pamela Redington
Secretary

The Outdated Law That's Costing Taxpayers Billions

Most people have never heard of it, but it is one of the most insidious sources of inflation in America

By IRWIN ROSS

INITIALLY, the contractor had figured the cost of a residential high-rise in Gaithersburg, Md., to be \$4,694,452. But then the developer asked the Department of Housing and Urban Development to subsidize the project. Result: an extraordinary escalation of labor costs.

With federal money involved, the contractor was required, under provisions of the Davis-Bacon Act—a law passed in 1931—to pay his work force the prevailing wages in the community, *as determined by the Department of Labor.*

Common laborers at Gaithersburg now had to be paid \$10.95 an hour, rather than the \$4.50 to \$6 at which they could have been hired. Excavation-equipment operators

were entitled to \$14.40 an hour rather than \$9, carpenters to \$13.61 rather than \$8.60. Overall, the project's cost jumped to \$5,142,260—an increase of nearly ten percent.

Most people have never heard of the Davis-Bacon Act, but it is a major cause of our skyrocketing construction costs. In 1979 the General Accounting Office surveyed 30 federal construction projects. In 12 instances, they found that rates established by the Department of Labor were unrealistically high—raising wage costs 36.8-percent higher than they should have been. The GAO also concluded that Davis-Bacon had saddled the government with excess costs of perhaps \$700 million a year.

Two years ago, an inter-agency

Senator John C. Sackett
Pouch V
Juneau, AK 99811

THE OUTDATED LAW

task force of the Carter Administration came to similar conclusions. It calculated that if the inflated wage rates of Davis-Bacon were eliminated, federal-construction-payroll costs would be reduced by ten percent—a saving of a billion dollars a year on a federal-construction budget of \$40 billion.

The Davis-Bacon Act served a purpose during the Depression. It protected local workers from contractors who might bid low on a government project and then import itinerant workers who found substandard wages preferable to starvation. Initially, the act applied only to construction projects directly undertaken by the federal government, but gradually it was extended to include just about every construction program with a federal subsidy or loan guarantee.

The basic problem with the act involves the bewildering rules the Department of Labor uses in determining what wage "prevails." Under department regulations, the prevailing rate is the one received by a majority of workers in a specific craft. The majority rule seems fair enough, and in highly unionized areas there is generally no argument about the prevailing wage.

The rub comes, however, when 50 percent or more of the workers do not receive the same wage—a characteristic of open-shop, or lightly unionized areas. Then the Department of Labor invokes the "30-percent rule." If 30 percent of

Why you should consult your doctor to determine if this vaccine is right for you

The vaccine helps protect against 14 of the most common types of pneumococcal pneumonia. While there are over 80 different types of pneumococci, the vaccine affords protection against the most prevalent types in the U.S., causing approximately 60 percent of all pneumococcal pneumonia. The vaccine will not afford protection against any type of pneumococcus not included in the vaccine. Also, the vaccine is not 100 percent effective for the 14 types included. It is intended for certain people, 2 years of age or older, whose physical condition indicates an increased risk of serious, or possibly fatal, illness should they develop pneumococcal pneumonia. Included in these "higher risk" groups are: (1) persons who have chronic ailments, such as chronic heart disease, chronic disease of the lungs or air passages, chronic kidney problems, diabetes, or other chronic disorders involving metabolism; (2) persons in chronic care facilities; (3) persons convalescing from severe disease; (4) persons 50 years of age or older, especially those over 65. Only your doctor can determine if the vaccine is appropriate for you.

Special Considerations

AS WITH MOST VACCINATIONS, certain adverse reactions may occur. A common reaction is redness and soreness at the point of injection. Usually this will last less than 48 hours. In some cases, a hard, lump-like spot may appear in the area, but this happens less frequently. Occasionally, low-grade fever (less than 100.9°F) occurs. When it does, it usually lasts no more than 24 hours following the vaccination. In rare cases, there have been reports of fever over 102°F. More serious long-lasting reactions and serious allergic reactions are unusual, but may occur.

Your doctor knows that special care must be taken when administering the vaccine and in selecting patients who should receive the vaccine. For example, women who are pregnant should not be vaccinated, because the possible effects of the vaccine on the development of the infant are not known. The vaccine is also not intended for persons who are allergic to any of its components, for children less than 2 years of age, or for persons with Hodgkin's disease who have received extensive chemotherapy and/or nodal irradiation. Other factors which may preclude vaccination are:

- medication affecting the body's immune response;
- respiratory illness with fever or other active infection;
- severe heart or lung disease.

Available information indicates that revaccination before five years is unnecessary and may, in fact, cause more frequent and severe local reactions at the site of injection. Thus, it is important that people not be revaccinated within five years.

This message does not include complete information regarding pneumococcal pneumonia or the vaccine. Therefore, you should consult your doctor for further details.

THE OUTDATED LAW THAT'S COSTING TAXPAYERS BILLIONS

the workers in a classification receive the same wages and fringe benefits—*so the penny*—then that rate becomes the prevailing one. The likeliest circumstance in which that can occur is when 30 percent of the workers in a particular craft are unionized. Thus, the minority-union rate becomes the prevailing rate, even though 70 percent of the craftsmen are paid less. Only when the 30-percent rule cannot be applied does Labor average all the local wages.

In its 1979 study, the GAO chronicled a typically absurd example of the 30-percent rule that turned up in Carson City, Nev. To determine the prevailing wage for painters, the Department of Labor surveyed 11 projects, finding eight painters at work. Two were paid \$6.25 an hour, two were paid \$8.74 and one \$9. But *three* painters were getting \$12.40 an hour. Three out of eight comes to 37.5 percent—so \$12.40 became the prevailing wage.

Sometimes Labor does not even bother to take a wage survey. When the GAO was conducting its study, it asked the department for the basis for the 530 area-wage determinations that were in effect in October 1976. But no surveys had been conducted for 57 percent of them. The Labor Department simply adopted the union rates of each locality.

The "importing" of union rates from big cities into smaller communities also prompts a persistent

criticism of Davis-Bacon. Michael Callas, a general contractor in Hagerstown, Md., told a Senate committee that he had been interested in bidding on a government project in Adams County, Pa. He was already working on a similar project four miles away, at Fort Ritchie, Md. Callas was amazed to learn that Labor Department wage rates were more than double the Davis-Bacon rates he was paying at Fort Ritchie. The reason: the department had gone to Harrisburg, Pa.—75 miles away—to find the prevailing wage rates.

Callas refused to bid on the project because of the inevitable friction that would have resulted within his work force over widely varying rates for identical work. For the same reason, many non-union contractors refuse to bid on federal construction. Where this occurs, there is less competition for government work—a phenomenon that hardly keeps prices down.

Davis-Bacon inflates costs in another way as well. Non-union contractors often employ "helpers and learners" at considerably lower rates to assist qualified craftsmen. But the Labor Department generally requires all workers on a federally subsidized construction project to be paid journeymen's wages.

The absurdities of Davis-Bacon have led to widespread demands for its demise. The GAO argues that, besides being inflationary, "other wage legislation and changes in economic conditions

THE OUTDATED LAW THAT'S COSTING TAXPAYERS 100,000 JOBS

make the law obsolete. GAO believes it should be repealed." Support for repeal also comes from newspapers with such diverse editorial views as the *New York Times* and *The Wall Street Journal*. The liberal organization Common Cause as well as many building-contractor groups point to flaws in Davis-Bacon.

Several bills are currently being considered in Congress to rescind the act completely. A piecemeal approach is also being tried—tacking on a Davis-Bacon exemption to expenditure bills as they come up. Such an exemption was part of the military-construction bill that recently emerged from Senate committee.

The staunch defenders of Davis-Bacon are the construction unions of the AFL-CIO. They maintain that if the act were discarded, workers would be subject to the potential abuses that were feared in 1931. Union spokesmen also minimize any deficiencies in the Labor Department's application of the law. But organized labor has a clear economic stake, for whenever it maintains high union rates, unionized contractors can compete effectively and thus obtain more jobs for union members.

The Department of Labor and the Reagan Administration favor reform rather than repeal of the Davis-Bacon Act. Proposed reforms,

announced in April, would substitute a 50-percent rule for the present 30-percent rule to prohibit the importing of urban workers into rural areas, and allow a helper for every five journeymen.

But the case for repeal is more compelling. A 50-percent rule would still be inequitable, if, for example, other wage rates in an area were lower; the Labor Department would be establishing a minimum-wage rate rather than a true prevailing one. Besides such details, the problem with changing the regulations is that the reforms of one Administration can be undone by the next. Moreover, whatever the changes, the Davis-Bacon Act by its very nature imposes an impossible burden on bureaucrats by obliging them, if need be, to issue wage determinations for more than 3100 counties and at least 19 crafts.

As Sen. Donald Nickles (R., Okla.), author of one of the repeal bills, says, "I find it ludicrous that the Department of Labor—in Washington, D.C.—is in the business of setting local wage rates for projects all across the United States."

Indeed, the country is too large and diverse, local economic conditions are too varied, for centralized bureaucratic wage determination. Beyond that, the Davis-Bacon Act is expensive, inequitable and unnecessary. We would be well off without it.

A MIDWESTERNA living in California: "How do I stand the smog? Well, I haven't had to shovel it yet."

—Contributed by William Rousler

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NUSHAGAK ELECTRIC CO-OPERATIVE, INC.

P. O. BOX 197 . DILLINGHAM, ALASKA 99576 . AREA CODE (907) 842-5251



ALASKA

March 24, 1983

Representative Adelheid Herrmann
Alaska State Legislature
Pouch V (MS - 3100)
Juneau, Alaska 99811

Re: SB 172 by Sackett

Dear Representative Herrmann:

We urgently recommend this bill to your favorable attention because it is a vehicle for correcting deficiencies in AS 36.05.

As this statute presently exists, all wage rates on public construction projects funded by grants administered by Community and Regional Affairs (and possibly other state agencies) to municipalities, public non-profit corporations and other community interest groups are mandated by a Department of Labor scale titled "Laborers & Mechanics Minimum Rates of Pay" dated 10/15/82. Not all communities are geared up to or financed well enough to pay these wages and they seriously distort other wage and salary plans existing in the different areas including the fueling of unnecessary inflation.

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As you are no doubt well aware, the rural economy does not enjoy the stability that is generally prevalent in the railbelt or South eastern areas of the state and we must compensate for this fact of life by doing things ourselves to realize efficiencies not always found elsewhere.

In 1982, the legislature approved a grant of \$539,000 to Nushagak Electric which was to be administered by Community and Regional Affairs to extend a waste heat supply system to the high school, court house, Southwest Regional School District and to State Shop facilities. The mandated wage rates make it very difficult to perform the project in an efficient manner because these rates are significantly higher than local rates and the project cost was based on local wage rate levels. Therefore, the

scope of the project will have to be reduced if NEC is forced to adopt wage rates mandated by the Department of Labor. This concept appears to be a very poor allocation of resources.

We would recommend that SB 172 as written be slightly amended to read as follows:

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Since Nushagak Electric Co-operative, Inc. has not signed the contract with Community and Regional Affairs as of this writing, I included the effective date of 1/1/83 in my suggested change of SEC. 36.05.130 above in order to be covered under any possible change in this law.

We would appreciate your attention to this matter because we feel that the concept of a high standardized state wage rate mandated by law is not in the best interest of especially the rural communities that have generally made a practice of maximizing their resources in the most efficient manner possible.

Thank you.

Yours very truly,



DAVID F. BOUKER
Manager

DFB:ka



Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-4801

DEPARTMENT OF ADMINISTRATION

May 10, 1983

The Honorable Adelheid Herrmann
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Herrmann:

Subject: LITTLE DAVIS-BACON ACT

On May 3, 1983, the Matanuska-Susitna Borough Assembly considered SSHB 304 on exemptions under the Little Davis-Bacon Act and SSSB 172 and HB 378 on repealing the Little-Davis Bacon Act as it applies to local governments. These bills relate to payment of prevailing wages on local government capital improvements.

The Assembly by a vote of 6 to 1 asked that the Little Davis-Bacon Act not be made applicable to local governments. They did not make any recommendations as to specific bills.

The chief problem areas in this Borough are:

(1) Volunteer projects. The Little Davis-Bacon Act has a chilling effect on volunteer type of projects carried on by non-profit groups such as the Lions Clubs, Chamber of Commerce, dog mushers, etc. When these groups are grantees of State monies through local governments and try to get a job done in the traditional manner of volunteer organization they get hog tied and frustrated. They find themselves forced to pay \$25-\$30 per hour for work they had intended to do at a largely contributed rate.

You cannot say that you can get around this by having workmen contribute back part of their pay to the project. This type of kickback would be in flagrant violation of the Little Davis-Bacon Act. Ask the State Commissioner of Labor.

(2) Road maintenance. Our efforts to accomplish road upgrades in the course of road maintenance are crippled. We cannot use our 20 or so road maintenance contractors for small upgrades such as bringing in gravel for soft spots or frost boils. It is just another thing that ought to be simple and inexpensive to solve that is made unnecessarily expensive and complicated.

The Little Davis-Bacon Act, as it is worded now, is a case of overkill. In attempting to reach the large highway contracts and projects like the Sullivan Sports Arena and to close every imaginable loophole (repainting is covered under the Little Davis-Bacon Act example), the Act has caught up Lions, Kiwanians, etc. who just want to put some log oil on a picnic bench.

I hope the people on legislative committees which deal with these bills, at least talk about these specific problems and indicate whether or not there is any need to solve them. It does not do any good to mechanically repeat slogans from the 1930's as a substitute for an analysis of real problems today. The existing Little Davis-Bacon Act needs to be looked at closely so that some specific problems can be solved.

Sincerely,



Gary Thurlow
Borough Manager

er

cc: Borough Assembly
Ginny Chitwood, Executive Director AML
Senator Jay Kerttula
Representative Barbara Lacher
Representative Ronald L. Larson

BRISTOL BAY AREA HEALTH CORPORATION

P.O. Box 10235
DILLINGHAM, ALASKA 99576

PHONE: (907) 842-5201

April 28, 1983

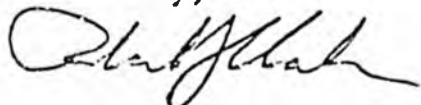
Representative Adelheid Herrmann
Pouch V
House of Representatives
Juneau, AK 99811

Dear Representative Herrmann:

Bristol Bay Area Health Corporation in the steps of Bristol Bay Native Association supports the passage of HB 304 as it relates to Title 36, Public Contracts, Laborers' and Mechanics' rates of pay.

Thank you

Sincerely,



Robert J. Clark
Executive Director

RJC:ksm

CITY OF AKUTAN

P.O. Box 557
Dutch Harbor, Ak. 99692
Phone (907) 698-2228



Anchorage Office
308 G Street, Suite 311
Anchorage, Ak. 99501
Phone: (907) 279-9245

April 28, 1983

Representative Walt Furnace, Chairman
House Labor and Management Committee
Pouch V
Juneau, Ak 99811

Dear Representative Furnace:

It has come to our attention that the House Labor and Management Committee will be holding a public hearing next Monday on House Bill 304 which deals with wage rates for publicly funded construction projects. We are not on the teleconference network, and so will not be able to testify at that time. However, we are interested in the bill, and wish to indicate support for it.

AS 36.05 as presently written is a problem for us. We usually administer directly, relatively small projects, but they are over the \$2,000 now exempted by statute. These projects are not usually of the scope to be attractive to outside bidders, because they are under \$100,000 in value. When the cost of the project goes over that amount it goes out to bid and an outside contractor builds the project. The contractor brings his own crew with him so that he can get the job done in the shortest possible time and at the lowest possible cost to him. This takes the local labor force out of the running for the construction jobs. As you well know, unemployment in rural Alaska is very high, and employment on these projects would help to alleviate the problem.

The money that is made on the projects, through the ordering of materials and wages paid, goes out of the community which generated it, except for the money paid locally for crew room and board. Sometimes the contractors bring in trailers for the crew, and the community does not even get that income.

We bring this up because the argument is often made that capital improvement projects in rural areas stimulate the local employment picture.

Page 2
Representative Furnace
April 28, 1983

On projects between \$2,000 and \$100,000 which we carry out ourselves, AS 36.05 requirements often make it necessary for us to scale back the scope of the project because of the high costs. These projects are construction of relatively small, under 1000 square foot, buildings, or renovation of existing facilities. There is no local lumber yard so freight costs have to be added to all materials costs.

We have a city salary schedule which was adopted by the City Council. This schedule is considerably lower than the little Davis-Bacon wage scale, but reflects what the leaders of the community feel is adequate compensation for work done, and is commensurate with what people can earn working for fish processors, the only other possible employer.

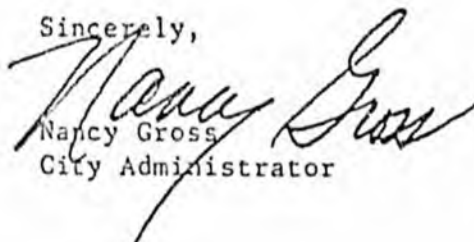
When we have to add freight costs for materials and Davis-Bacon wage provisions to the cost of a project, we find that we have to reduce the number of people we can hire, and cut back in as many other ways as we can think of, to stay within our budget.

Local people are often willing to work for less than Davis-Bacon for several reasons. It beats not working at all, and they are willing to make a contribution to the community welfare in reduced compensation, but they do not feel they can volunteer outright. They also know that the city is able to spread the money available for wages more widely through the community. Helping each other out is still important to the people of Akutan.

We used to think that Davis-Bacon and the little Davis-Bacon Acts would be helpful to us, but as projects have been carried out under these acts, costs of projects have escalated and village people, once again, have been left out of the process.

We support passage of HB 304. We appreciate your consideration of these views on the issue.

Sincerely,


Nancy Gross
City Administrator

cc: Mayor Jacob Stepetin
Representative Adelheid Herrmann
Senator Bob Mulcahy
Members of the House Labor and Management Committee



Bristol Bay Borough

BOX 189 • NAKNEK, ALASKA 99633

JIM D. CLARK
MAYOR

April 25, 1983

TELEPHONE
(907) 246-4224

Representative Adelheid Herrmann
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Herrmann:

I support House Bill 304 exempting communities with a population of less than 5,000 from the Davis-Bacon Act.

Small communities with limited financial resources find it difficult to compete in the labor market, and the wage scales in some cases are much higher than the prevailing scale of the small communities.

Sincerely,

Jim D. Clark
Mayor

bjt

MSG 83-00012365 PRTY 1 04/26/83 16:49:08 ORIG: LI00 IN= 0006 OUT= 0125
FROM: ANNA MAY, DILLINGHAM TO: JUNEAU INFORMATION
TARGET: LJHL SUBJ: POM

TO: REPRESENTATIVE ADELHEID HERRMANN
SENATOR JOHN SACKETT
POUGH V, JUNEAU, ALASKA 99811

FROM: CITY OF CLARKS POINT, CLARKS POINT, ALASKA 99569

SUBJECT: HB 304 AND SSSB 172

WE ARE IN FULL SUPPORT OF HB304, "THE LITTLE DAVIS BACON ACT".
WE ALSO FULLY SUPPORT SENATOR SACKETTS BILL, SSSB172, AND WE HOPE THAT
THEY WILL GET THESE BILLS PASSED.

POM SENT BY ANNA MAY SORENSEN, DILLINGHAM LID
OMNI NO. 12365

MSG 83-00004534 PRTY 1 03/30/83 15:53:24 ORIG: LI00 IN= 0004 OUT= 0093
FROM: DOROTHY AND MASSA IN DILLINGHAM TO: JUNEAU
TARGET: LJHL SUBJ: POM MESSAGE

TO: REPRESENTATIVE HERRMANN

FROM: DAVE BOUKER, NUSHAGAK ELECTRIC, DILLINGHAM, ALASKA 99576

SUBJECT: HB304

VERY PLEASED WITH YOUR INTRODUCTION OF HB304. WE WILL BE HAVING 2 BOARD OF
DIRECTOR MEMBERS OF NUSHAGAK ELECTRIC IN JUNEAU NEXT WEEK. WE'LL WATCH FOR
PROGRESS AND MOVEMENT ON HB304.

THANKS FOR YOUR FINE HELP.

*****EOM

KOLIGANEK VILLAGE COUNCIL

KOLIGANEK, ALASKA 99576 - VILLAGE TELEPHONE (907) 596-8001

Representative Adelheid Herrmann
Alaska State Legislature
Pouch V
Juneau, Alaska 99633

April 21, 1983

Dear Adelheid;

This letter is in regards to Title #36. Koliganek requested ~~has~~ requested and received legislative appropriations based on our own wage scale. Community & Regional affairs has thrown us a curve, by insisting on adherence to title #36, which we are unable to comply with, and will make it impossible to implement our construction projects. Some of our reasons for being opposed to title #36 include, but are not limited to the following:

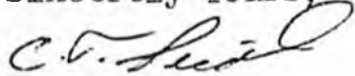
1. In the sense of public and state-wide fiscal responsibility we find #36 inflationary.
2. Construction in remote locations such as Koliganek, is by virtue of it's site, much more costly in freight and administration. These costs have to be offset someplace or a project cannot be implemented.
3. Koliganek, as our record will prove us out, can really stretch a dollar, and get the most for our legislative dollar. #36 is a goverment mandate to waste.
4. Isolated small communities like Koliganek, have a much stronger sense of community resonsibility & togetherness than larger urban communities on the road system. Hence we are willing to work together for the good of the community a smaller wages, in order to have a project that the community can benifit from.
5. If the contractors we are forced to seek out, are required to pay title #36, than they will choose to bring in outside union workforces, thereby continuing the unemployment of the local workforce, and in turn, the local work forces dependance on the State's Department of Public Assistance.

6. We in Koliganek would not presume to mandate wage & hour legislation for Anchorage, Fairbanks, or Juneau, therefore we feel threatened by the highhanded way in which Koliganek is told it must structure it's pay scale.
7. LSR&T of the DOT, can pay lower wages in order to have a local project, than so should the local entity also be able to pay lower wages to have a project.
8. Last but not least, just about everyone is crying to control inflation, and reduce goverment spending. Koliganek is more than willing to do just that, should the State legislature than dictate otherwise?

Hopefully you will make copies of this letter and provide them to the committe members, or possibly even non-committee members who may be unsure or opposed to repeal of title #36, or of more flexibility of it.

Keep up the good work, we all appreciate what you are doing.

Sincerely Yours,



C.T. Seidl
Village Administrator

A RESOLUTION BY THE 3RD ANNUAL
YUKON-KUSKOKWIM DELTA MAYOR'S CONFERENCE

Bethel, Alaska
November 3, 4, 5, 1982

RESOLUTION NO. 82-13

A RESOLUTION REQUESTING THE 1983 ALASKA STATE LEGISLATURE TO PASS THE NECESSARY LEGISLATION TO ALLOW MUNICIPALITIES TO FORCE ACCOUNT CAPITAL PROJECTS AND NOT BE OBLIGATED TO PAY "LITTLE DAVIS-BACON" WAGES.

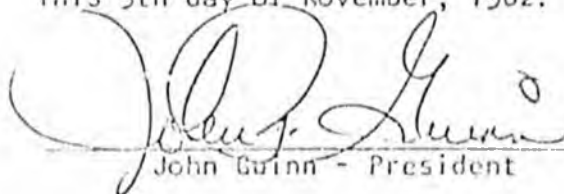
WHEREAS, municipalities have the local expertise in their own citizenry to construct and complete most public works projects; and

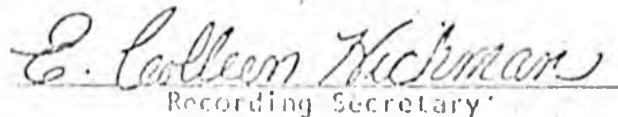
WHEREAS, municipalities are now receiving funding to construct roads and cities are executing these projects successfully through planning and force accounting; and

WHEREAS, the Little Davis-Bacon Act wages are prohibitive as far as local hire and successful project completion,

BE IT RESOLVED BY THE YUKON-KUSKOKWIM DELTA MAYOR'S CONFERENCE: To support legislation that would allow municipalities to force account local projects using local wage scales as a standard, which allows much needed employment for the local citizenry, rather than using Little Davis-Bacon Act wages which drastically depress local hire.

PASSED and APPROVED by the Third Annual YUKON-KUSKOKWIM DELTA MAYOR'S CONFERENCE THIS 5th day of November, 1982.


John Guinn - President


Recording Secretary

cc: Greg Capito
Village Safe Water Program

Robert W. Ward, Commissioner
Department of Transportation &
Public Facilities

Norman Gorsuch
Attorney General
Department of Law

James Souby, Director
Division of Policy Development and Planning

Representative Al Adams, Chairman
House Finance Committee

Lisa Rudd, Commissioner
Department of Administration

Ron Lehr, Director
Division of Management and Budget

CITY OF AKOLMIUT

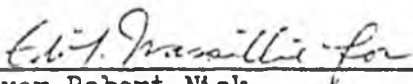
C/O CITY CLERK - NUNAPITCHUK, ALASKA 99641 - (907) 527-5327

April 27, 1983

HONORABLE TONY VASKA
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Please find resolution 83-15 with reference to a need for repeal or amendment to have the money go further in construction and more appropriations to rural villages. If this requirement is met by villages throughout Alaska they wouldn't have a chance of finishing the project(s) as anticipated and work would be rushed and thereby constructed poorly.

Please consider this resolution so that the States Capital could go further in development and make everybody happy. Thank-you.



Mayor Robert Nick

RN: ejv.

CC: House & Senate Committee Chairman(s)
Honorable Anthony Vaska

City of Akolmiut

Resolution 83-15

Resolution for repeal of the Little Davis-Bacon Act in Alaska.

WHEREAS, the City of Akolmiut at Nunapitchuk is a rural village of 354 people and direly in need of funds to develop City service projects; and

WHEREAS, the State of Alaska has adopted a constitutional spending limit Statewide because of declining oil revenues; and

WHEREAS, a persistent need of funds to construct and maintain schools, water & sewer projects, airports, etc. are inflated due to the requirement stipulated under the Little Davis-Bacon Act for Alaska; and

WHEREAS, the States Capital could be distributed more evenly and rural Communities like Nunapitchuk could be awarded much needed basic needs like an airport; and

WHEREAS, the Reagan administration has cut federal programs drastically in U.S. thereby greatly increasing rural villages dependence in the State of Alaska; and

WHEREAS, rural villages are almost always denied much needed basic needs (services) by the Alaska Legislature,

NOW THEREFORE BE IT RESOLVED THAT, the City Council of Nunapitchuk request the Alaska State Legislature to consider repealing the Little Davis-Bacon Act in Alaska and (or) make an amendment to the Act to say that Communities with populations of 5,000 or less not be affected by this Act.

PASSED AND APPROVED THIS 26 DAY OF April, 1983.

Robert Nick
Mayor

John H. Carter
Council Member

Vice Mayor

Council Member

James P. Stevens Sr.
Council Member

Council Member

John A. Berlin
Council Member

STEVENS VILLAGE COUNCIL

Stevens Village, Alaska 99774

(907) 498-8001

Rep. Herrman
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Rep. Herrman:

We live in a small community with a high rate of unemployment. The opportunities for developing our community are limited, and the options for employment are very scarce, except for fishing, trapping and seasonal labor. Few of our residents have vocational training or high school education. Even if the people had education or vocational training, there are few jobs for which they would qualify in the community.

The Title 36 requirement has increased the cost of construction in our community. As a small community it is hard to justify needed facilities and services based on a population count. Title 36 forces small communities to import high cost labor when there is a ready and willing labor force available.

Adoption of HF 304 would enable a lower capital cost for projects in small communities, increase the participation of the local labor force in construction projects, and enable local wage rates to reflect local conditions.

We urge your support of HB 304.

Sincerely yours,


Elijah Joseph, Chief

Sec. Chief


MAY 3, 1983

CITY OF KASIGLUK
AKULA HEIGHTS
KASIGLUK ALASKA 99609

REPRESENTATIVE TONY VASKA
HOUSE OF REPRESENTATIVE
POUCH V
JUNEAU ALASKA 99811

RE: LITTLE DAVIS BACON ACT

THIS LETTER IS IN SUPPORT OF THE REPEAL OF THE LITTLE DAVIS-
BACON ACT. THE REPEAL OF THIS ACT WOULD SAVE US MONEY IN THE
RURAL ALASKA. MOST OF THE VILLAGES HAVE NEEDS THAT WOULD BE
TOO EXPENSIVE TO MAINTAIN ONCE THIER BUILD.
PLEASE ENDORSE THE REPEAL OF THIS ACT. THANK YOU VERY MUCH.


ZACHARIAS BRINK, SR. MAYOR

ZB/naw/ga

CC: OFFICE FILES

AMENDMENTS TO "LITTLE BACON-DAVIS ACT"

WHEREAS Title 36 of the Alaska Statutes known as the "Little Davis-Bacon Act" is intended to assure that workers receive fair compensation on construction projects by state and local governments and to avoid undercutting of local wages by importing outside workers; and

WHEREAS the prevailing wage for local workers varies substantially throughout the state; and

WHEREAS the present laws actually encourage importing construction firms and labor from the large populations centers of the state and may artificially inflate the costs of construction for local governments beyond actual prevailing costs, which exacerbates local unemployment problems; and

WHEREAS local public construction is primarily a function of local government and administration and policy should be established at a local level to the greatest extent possible;

NOW THEREFORE BE IT RESOLVED that the Alaska Municipal League urges amendments to Title 36 consistent with the premises stated above as follows:

1. To provide for local government control in establishing prevailing wages, based on local needs and conditions.
2. To clarify the definition of public construction and, in particular, that public construction does not include projects of non-profit corporations funded by pass-through grants or projects for maintenance, repair, or minor construction.

Adopted at the 32nd Annual Local Government Conference of the Alaska Municipal League on November 13, 1982.

.. Kenai City Council

P.O. Box 153
Kenai, Alaska 99506

May 5, 1983

Office of the Governor
Bill Sheffield, Governor
3rd Floor, State Capitol
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield:

It has come to my attention that legislation has introduced (SSSB 172) that would repeal the Little Davis - Bacon Act in Alaska.

Based on the review and evaluation of the Davis - Bacon Act, the repeal was a wise decision from a local government's standpoint. I believe that if the local governments can get local people to work for below union scale, they should. This would create jobs for the local people save money for the local governments and for the State of Alaska from which most of the monies for capital projects come.

Rural Alaska depends mostly on state monies for capital projects. I believe that Rural Alaska should spend most of the money on the capital project rather than spending it on wages.

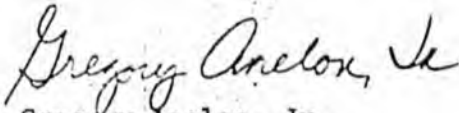
Also, in Rural Alaska most people aren't skilled so the Contractors hire them to assist the qualified craftsman. The Contractor should pay a considerably lower wage to the person rather than paying at the qualified craftsman's wage.

Furthermore, in my opinion, the extra cost to the Contractor to pay the union scale would hurt the taxpayers by spending money on something that would not accomplish anything and yet increase the deficit.

Your vote to support the repeal of the Little Davis - Bacon will be greatly appreciated.

Thank you for your time and consideration.

Sincerely,



Gregory Anelson, Jr.
Mayor

cc: Legislature

City of Tununak

P. O. Box 69

Tununak, Alaska 99681

Phone No. (907) 652-6626

May 2, 1983

The Honorable John C. Sackett
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

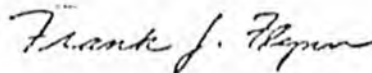
Dear Senator Sackett:

Recently, it has come to our attention that legislation has been introduced (SSSB 172) that would repeal the Little Davis-Bacon Act in Alaska. The City of Tununak recognizes the advantages of eliminating this mandate which requires that union-level wages be paid by contractors and sub-contractors on projects funded directly or indirectly by the State.

A case in point which clearly demonstrates the benefits, to both the City and State, of repealing this Act can be made from our own sea wall project. In our initial budget estimate for the workers wages (using a union-level scale), we were planning to hire 10 workers for more than \$525,000; however, using a force-account system, we are now able to hire 25 workers for less than \$240,000. The reduction in worker wages is enabling the City to hire an additional 15 workers while, at the same time, save the State of Alaska hundreds of thousands of dollars.

We support this legislation because we feel that the repeal of the Little Davis-Bacon Act will enable the City of Tununak to acquire funds that are critical to the operation and betterment of our community--in spite of the declining State revenue.

Sincerely,



Frank Flynn
Mayor

cc: Governor Bill Sheffield
Representative Anthony Vaska

CITY COUNCIL OF MOUNTAIN VILLAGE

P.O. BOX 204 · MOUNTAIN VILLAGE, ALASKA 99632 · (907) 365-8001

May 2, '83

Honorable, John C. Sackett
State Senator
Pouch V (MS3100)
Juneau, Alaska 99811

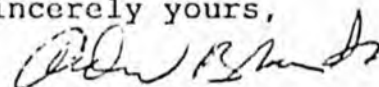
Dear Senator Sackett:

This letter is in full support of Senate Bill (SSSB 172), if this Bill becomes law, this is something we look forward to. The City Council of Mtn. Village is in favor of the SSSB Bill 172 that will repeal the little Davis Bacon Act. This is especially true in the bush where we get little money from the legislature because of low population. What little money we get is usually taken out by the outsiders who are hired in the union halls. When they leave they take the money outside.

If the City of Mtn. Village is given \$100,000.00 from the State or Federal Governments, then if the building or project is built in compliance with building codes, then we could have only \$60,000.00 of working money instead of the \$100,000.00. If employees are hired in a union hall and are paid \$18.00 per hours, and if we hire the residents of Mtn. Village; and we pay \$9.00 to \$12.00 per hour, then there is a big influence for the money that is given to us. In most cases people in our community are qualified to the same kind of work; or sometimes better because they are not fighting against time and contract.

I hope the repeal of the little Davis Bacon Act will go through the Legislature.

Sincerely yours,



Andrew Brown, Sr.
Mayor

Page two
Senator Sackett
May 2, 1983

CC: Govenor Bill Sheffield

Senators: Don Bennett	Tim Kelly
Richard I. Eliason	Jalmar M. Kerttula
Bettye Fahrenkamp	Pappy Moss
John Faiks	Bob Mulcahy
Frank R. Ferguson	Fritz PettyJohn
Paul Fischer	Bill Ray
Vic Fischer	Patrick M. Rodey
Donald E. Gilman	Arliss Sturgulewski
Rick Halford	Robert H. Ziegler, Sr.
Joe Joesphson	

Representatives: Mitchell E. Abood, Jr.
Albert P. Adams
Ramona L. Barnes
Robert H. Bett'sworth
Charlie Bussell
Bette Cato
Don Clocksin
John Cowdery
Mike Davis
Jim Duncan
Joe Flood
Milo Fritz
John G. Fuller
Walt Furnace
Peter Goll
Ben F. Grussendorf
Joe L. Hayes
Adelheid Herrmann
Vernon L. Hurlbert
Niilo Koponen
Barbara Lacher
Ronald L. Larson
John Lindauer
John J. Liska
Hugh Malone
Terry Martin
Jack McBride
Mike M. Miller (Juneau)
Mike Miller ,North Pole
Sam Pestinger
Randy Phillips
John Ringstad

Richard Shultz
Mike Szymanski
Mae Tischer
Rick Uehling
Anthony N. Vaska
Jerry Ward
Ron Wendte
Fred F. Zharoff



THE HEART OF THE MATANUSKA VALLEY

CITY OF PALMER

COUNCIL-MANAGER GOVERNMENT
P.O. BOX 136E • PHONE (907) 745-3271
PALMER, ALASKA 99645

MAY 6 1983

OFFICE OF THE MAYOR

April 29, 1983

The Honorable John C. Sackett, Senator
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett,

We at the City of Palmer agree the Little Davis-Bacon Act has indeed been counterproductive for our area and artificially raised the cost of construction in and has been a hardship on our local small contractors.

Growing population in the Matanuska-Susitna Borough is placing substantial pressure on our schools, sewer systems, roads and other basic services, yet money to provide these services will be harder to come by.

Thank you for introducing SSSB 172. By a copy of this letter I will indicate our support of SSSB 172 to our legislatures from the Mat-Su.

Sincerely,

George W. Carté, Mayor

GC/tlc

cc: Senator Kerttula
Representative Lacher
Representative Larson

Page two
SB 172

I would like to go on record as supporting your SB 172.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "W. H. Phillips".

Dr. W. H. Phillips
Superintendent of Schools

cc: Mr. Stanley Peters, Regional Board Chairman



MAY 6 1933

City of Galena

Antoski Hall • P.O. Box 149 • Galena, Alaska 99741 • Telephone (907) 656-1281

May 2, 1983

Senator John Sackett
Pouch V
Mailing Stop 3100
Juneau, Alaska 99811

Dear Senator Sackett,

We are in receipt of your letter of April 23, 1983, in regard to your sponsorship of a bill to repeal the Little Davis-Bacon Act. There is no question but what the Little Davis-Bacon Act increases the cost of our construction projects for the City of Galena. For example, for the construction of a Vehicle Storage Building last fall, from information we have, the Contractor was required to pay \$27.80 per hour including fringes for Carpenters. In the City of Galena, our Water Plant/Maintenance Supervisor supervises the whole water plant operation, water and sewer delivery, roads maintenance, building maintenance, and all city construction type projects that are not contracted out. His responsibility and job knowledge requirements seem much higher than that of a carpenter; yet, his wage including fringes is only about 65% of the Little Davis/Bacon Carpenter's wage. The laborer's rate of \$22.35 including fringes even surpasses our Water Plant/Maintenance Supervisor's rate.

We hope this information is of some help.

Sincerely,

Pat Myers
City Manager

cc: Governor Sheffield

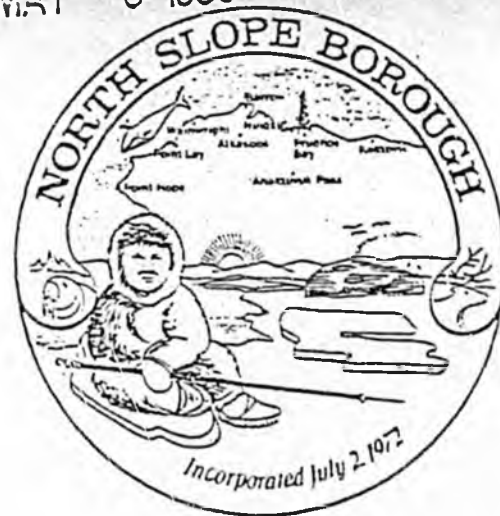
MAY 0 1983

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723
Phone: 907-852-2611

Eugene Brower, Mayor



May 2, 1983

The Honorable John Sackett
Alaska State Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett:

I support the bill you have sponsored (SSSB 172) to repeal the Little Davis-Bacon Act in Alaska to eliminate the mandate that union-level wages be paid on projects funded directly or indirectly by the State.

I understand the repeal of this law will benefit capital projects in rural Alaska so they can be constructed at lesser costs. Thus, these savings translate into the State providing a greater number of capital projects in rural areas and more employment opportunities.

I commend your actions to be very appropriate, especially in light of the forecasted decline in State revenues.

Sincerely,

Eugene Brower, Mayor



CITY OF WASILLA

P. O. BOX 430
WASILLA, ALASKA 99687
PHONE: 376-5227

MAY 6 1983

May 2, 1983

Honorable John C. Sackett
Co-Chairman Senate Finance Committee
Pouch V
Juneau, AK 99811

Dear Senator Sackett:

In reply to your letter regarding repeal of the
Littel Davis-Bacon Act you can be assured of my
support.

In this day of declining state revenue I think it
very important to establish reasonable wage rates more
in tune with actual conditions.

Sincerely,

Harold S. Newcomb, Mayor
City of Wasilla

HSN:EPN/mdh

MAY 6 1983



CITY OF ANDERSON

P.O. Box 40011 • Clear, Alaska 99704 • Phone (907) 832-5566

In Reply
Refer To:
May 4, 1983
LEG 900

Honorable John Sackett
THE STATE CAPITOL
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Sackett:

We have heard that your office is interested in knowing more about the ways in which provisions of the Davis-Bacon Act impacts employment, effective use of public funds and local economies. We are pleased to give you our thoughts along those lines.

Our comments are cast against two critical factors:

1. We support the philosophy and validity of the union movement;
2. We understand and acknowledge that stewardship of public funds dictates due care and caution in the use of those funds; and that,
3. Number one and two above are not necessarily self-exclusive.

In Anderson, \$10-14 per hour is considered a competitive wage for general labor and \$12-17 a fair wage for operators and mechanics. These figures are \$10-15 per hour less than those required by the Davis-Bacon Act.

During the summer construction season, Anderson anticipates employment of twelve persons in these categories for 15 weeks.

For easy calculation, we have arbitrarily chosen mid-points in both the city wage rate and Davis-Bacon wage rates, thus,

City = \$13.50/hr

D-B = \$26.00/hr

D-B: 12 workers x 40hrs/wk x 15 wks x \$26.00/hr = \$187,200
Payroll tax cost at 22% = 41,184

Total \$228,384

City: 12 workers x 40hrs/wk x 15 wks x \$13.50/hr = \$ 97,200
Payroll tax cost at 22% = 21,384

Total \$118,584

Difference: \$109,800

% Differential: 48%

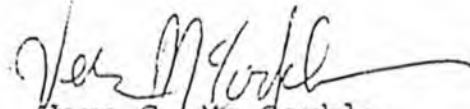
From this quick demonstration, it can be seen that to observe the D-B rate scale requires a 48% premium which could be used for public works, but must be paid out in often unrealistically high wages. In the above example, \$109,800!

As in other small communities and villages in Alaska, Anderson workers are employed near their homes where travel costs are minimized and usually tools and other work equipment are provided. Often work sites elsewhere in Alaska are remote where cost of living is high. Presumably the D-B scale is to help defray some of these typically employee-paid costs.

We hope this study has been helpful in your research.

Very truly yours,

THE CITY OF ANDERSON



Vern C. Mc Corkle
City Administrator

VCM/ww

MAY 9 1983

CITY OF SKAGWAY

GATEWAY TO THE GOLD RUSH OF '98"
P. O. BOX 415 SKAGWAY, ALASKA 99840
(907) 983-2297

May 5, 1983

Senator John C. Sackett
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett:

I would like to make a few comments regarding SSSB 172 which would repeal the Little Davis-Bacon Act in Alaska.

The purpose of the Little Davis-Bacon Act is to insure that public construction contracts are competitive in regards to expertise and profit but not wages. Workers as a class are protected against exploitation by contractors. Unfortunately, in practice this Act has served to elevate workers' wages to unrealistic levels at the expense of the public. The basic problem is that the wage determinations have been set by the Department of Labor to be equivalent to union scale plus benefits. In small communities wages in general are much lower than union scale even without benefits and the consequence has been that contractors import more highly skilled, higher paid workers to do public construction work. Thus, small communities pay top dollar for contractual work with little hope of solving local unemployment problems. This is one major reason that more and more communities are using the force account approach for doing their capital projects.

Currently, the Department of Labor has an unused provision that allows them to make local wage determinations. Since the Department of Labor is one of the most bureaucratic and insensitive arms of State government, I feel that a far more appropriate thing to do would be to repeal the Little Davis-Bacon requirement for public construction contracts and allow instead for wage determinations to be made at the municipal level. Wage determinations outside of any incorporated areas could be made by the contracting entity.

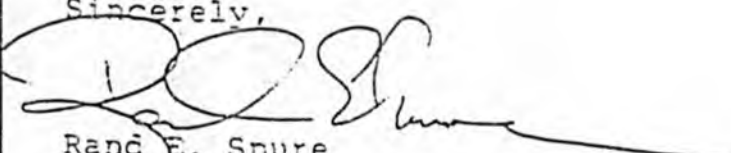
Skagway is suffering an 80% unemployment rate. Even though nearly ten million dollars of construction work will take place here this summer, only a handful of local residents will find employment. Since the contractors must pay top dollar for labor, they prefer to import past employees rather than take a chance on local workers. If, on the other hand, the City had determined that wages would range between \$12.00 to \$16.00 per hour, for instance, more locals both skilled and semi-skilled would have been hired and the job would probably have been done cheaper.

City of Skagway
May 5, 1983
Page 2

An added benefit of increased usage of local labor would be an increased desire to do a quality job.

I urge you to support SSSB 172 and any other bills which address the Little Davis-Bacon problems. I would be happy to discuss this with you at any opportunity.

Sincerely,



Rand E. Snure
Mayor

MAY 5 1983



CITY OF BETHEL

P.O. Box 388 • Bethel, Alaska 99559

543-2297 — Area Code 907

April 29, 1983

State Legislature

RE: SSSB 172

The City of Bethel herein commends and supports your efforts to repeal A.S. 36.05, the Little Davis Bacon Act. Title 36 (Little Davis Bacon) as it appears on the books and is administered through the Department of Labor is nothing more than a government feeding through perpetuated at the insistence of organized labor. The basis idea behind the law has merit in that it mandates that prevailing wages in an area be paid on government sponsored construction projects in order to eliminate cutthroat competition at the expense of the working person. But its enforcement ensures that the non-competitive aspects of union construction - highwages and restrictive work rules - remain in wide use on government assisted construction projects.

The State of Alaska with its oil revenue has embarked on a large scale development program in an attempt to develop Alaska's infrastructure to a point where Alaska's private economy can flourish on a long term basis and, thereby, benefit all Alaskans with more employment opportunities. We agree entirely with this approach and concept for using non-renewable revenues to develop a renewable or thriving economy that won't be subject to the boom and bust fluctuations heretofore experience. However, it would seem only sensible that the State of Alaska would do everything in its power to get the most for its money. A.S. 36 mandates that an artificially high price be paid for labor on all State sponsored for assisted projects therein negating the variables of labor and inflating the overall cost of all projects. That overly high price for labor then falls over into the labor wages paid in the private sector thereby driving up the cost of doing business. Labor is and should remain a variable cost negotiated with unions and/or with a contractor's work force. It should not be set by government.

The City of Bethel is attempting to do, within the City limits, what the State of Alaska is attempting to do over the entire states; that is, build an infrastructure that can adequately react to growth in the community and create an environment in which private enterprise can flourish. Most of our projects are paid for with state grants and because of this, we are required to pay A.S. 36 wage rates. During the recent construction of a new Public Works Building for the City of Bethel, the A.S. 36 requirements increased the total projects costs by 10%. The increase in labor costs was approximately 25%. This size increase has an enormous impact on a community like Bethel with

limited sources of revenue. This Public Works Building was built with local money, not with state grant funds, yet we still were required to adhere to A.S. 36. The overhead of the governmental entity, as well as the contractor's, also increases due to the reporting requirements contained in A.S. 36. It simply costs everybody money.

The labor costs associated with constructing Bethel's new Petroleum Products Dock averaged \$49.49/man hour over the life of the job. This included wages and benefits as required by A.S. 36. I don't need to explain the financial impact of carrying a wage scale like that over a 6 month construction period. The cost becomes staggering. In this instance, the State of Alaska paid those costs through a municipal grant. It is a cost that the State nor the municipality did not need to incur except for the archaic requirements of A.S. 36.

All small municipalities must undertake other relatively, small construction projects to accommodate growth and change. A.S. 36 must still prevail, therein, driving up the costs of meeting nearly every need. On some small projects we experience up to a 33% differential between the A.S. 36 and non-A.S. 36 bids. A 33% hike in the cost of meeting and accommodating growth and change places an undue burden on the already strapped finances of small communities.

We are also missing the boat in another area because of A.S. 36; that is, the area of job training. I know of no employer that is willing to train workers while paying the labor costs mandated in A.S. 36. Those of us in rural Alaska must, therefore, stand idly by and watch workers come in from "outside" while unemployed local workers remain unemployed and cannot get the training and experience required to enter the work force. These workers then end up in the unenviable position at the end of the unemployment line. We cannot blame the contractors for this for it is purely an economic decision. The tide must change sometime. The people of rural Alaska should not have to stand by while other people come in and reap the benefits of our efforts. Economic self sufficiency is something we are all striving for. We cannot achieve it under existing conditions required of us by A.S. 36.

The State of Alaska and all of its political subdivisions are suffering under a law (A.S. 36 - The Little Davis Bacon Act) devised for another time. We feel that we've transcended that time. Labor will get the wage it deserves. We are not trying to short change the working person. We are trying to get the most we can get for our construction dollar. With A.S. 36 in place, we cannot achieve that goal. We support wholeheartedly your efforts to repeal A.S. 36.

Sincerely,



John Guinn
Mayor

MAY 2 1983



CITY OF CRAIG

P.O. Box 23
Craig, Alaska 99921
(907) 826-3275

April 27, 1983

The Honorable John C. Sackett
Co-Chairman of Senate Finance Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett:

Thank you for your letter of April 23, 1983 regarding SSSB 172 which would repeal the Little Davis-Bacon Act. We are in wholehearted agreement with this bill, and support you in whatever efforts you make to assure its repeal.

I am sending letters to our legislators and the Governor stating our support of the bill. Thank you for your effort in this matter.

Sincerely,

Lee W. Axmaker
Lee W. Axmaker
Mayor

LWA/hg



APR 28 1983

THE CITY OF HAINES, ALASKA
P.O. BOX 576
HAINES, ALASKA 99827
(907) 766-2231

In Reply
Refer To: April 26, 1983

Senator John C. Sackett
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: SSSB 172

Dear Senator Sackett:

On behalf of the City of Haines, I would like to offer our support of your sponsored bill repealing the little Davis-Bacon Act in Alaska. In concurrence with your views we feel this Act has resulted in inflated construction costs at far greater consequences to smaller, rural cities than to the large metropolitan areas.

Sincerely,

A handwritten signature in cursive script, appearing to read "Darrell Maple".

Darrell Maple
City Administrator
CITY OF HAINES

DM/ktg
cc: Governor Sheffield
Senator Eliason
Representative Goll

MAY 3 1983



CITY OF MC GRATH

P.O. BOX 57 MC GRATH, ALASKA 99627

PHONE (907) 524-3825

April 27, 1983

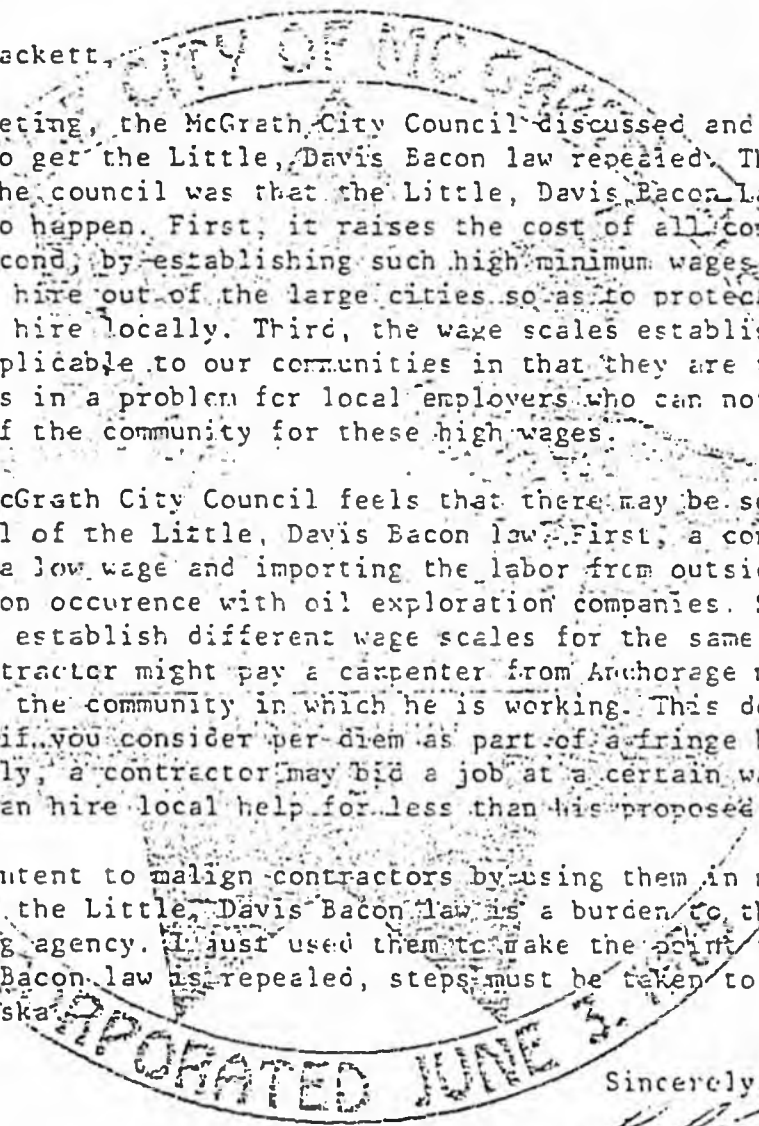
The Honorable John Sackett
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett,

At its last meeting, the McGrath City Council discussed and endorsed your efforts to get the Little, Davis Bacon law repealed. The general consensus of the council was that the Little, Davis Bacon Law causes three things to happen. First, it raises the cost of all construction projects. Second, by establishing such high minimum wages, it forces contractors to hire out of the large cities so as to protect their bids rather than to hire locally. Third, the wage scales established by the law are not applicable to our communities in that they are too high. This in turn results in a problem for local employers who can not meet the expectations of the community for these high wages.

However, the McGrath City Council feels that there may be serious problems with the repeal of the Little, Davis Bacon law. First, a contractor may bid the job using a low wage and importing the labor from outside of Alaska. This is a very common occurrence with oil exploration companies. Second, a contractor may establish different wage scales for the same trade. For example, a contractor might pay a carpenter from Anchorage more than a carpenter from the community in which he is working. This does happen on a regular basis if you consider per diem as part of a fringe benefit package. Finally, a contractor may bid a job at a certain wage scale and find that he can hire local help for less than his proposed wage scale.

It is not my intent to malign contractors by using them in my examples. In many instances the Little, Davis Bacon law is a burden to them as well as the contracting agency. I just used them to make the point that once the Little, Davis Bacon law is repealed, steps must be taken to protect the workers of Alaska.



Sincerely,

Robert S. Suettner
City Administrator

APR 27 1983

MANLEY HOT SPRINGS COMMUNITY ASSOCIATION

MANLEY HOT SPRINGS, ALASKA 99756

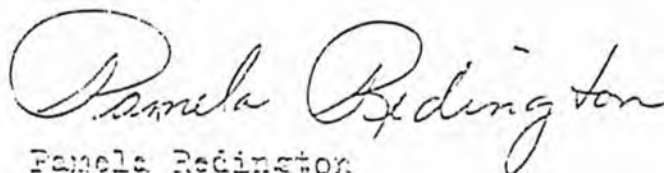
April 24, 1983

Hon. John Sackett
Pouch V
Jencau, Alaska 99811

Dear Sen. Sackett

The Manley Hot Springs Community Association Board voted to write you in regard to Title 36, Davis-Bacon wage requirements which creates a hardship for our state funded community projects. Not only does this regulation upset our local economy, it also makes it difficult to complete local projects within budgetary limitations. We recently became aware of requirements when signing our SB 168# contracts. There was no knowledge of the Title 36 requirements when we first wrote our project proposals and budgets. Your consideration and assistance in this matter this session will be greatly appreciated.

Respectly



Pamela Redington
Secretary

MAY 2 1983

City of Gambell
P.O. Box 111
Gambell, Alaska 99742

April 26, 1983

Hon. Senator John Sackett
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett

Since there are a large number of major development requests this year, I am strongly in support of SSSB 172, the repeal of the Little Davis Bacon Act in Alaska.

The local level wages would be savings of up to fifty percent of the State's monies. In fact, other than water and sewer or other projects that need special equipment, the smaller municipalities must be allowed the forced account on their building projects.

Each community now has enough skilled people in all trades. The contract monies that come to the communities are not benefited by the local people. Only two or three local people are hired by the contractors.

With forced account, the economy of each community would be lifted while it automatically helps the social well being of the skilled young people.

Each community now has high schools provided by the State of Alaska, so therefore, the jobs also must be localized in order to make local education work.

For an example, Gambell can have it's own building contracting business and road contract business. We have many skilled carpenters, electricians, plumbers, drivers, and equipment operators. All we need is to be provided contracts and utilize the money at the local level. This will not only help the local people, but it would help our tax base which is needed very badly.

With negative municipal assistance this year and a very low tax base, the closure of the city government is errinant. The bill would help the State to save dollars for other purposes. Congratulations.

Sincerely



Roger Silook, Mayor

cc Governor Sheffield
Senator Ferguson
Representative Fuller

STATEMENT OF ALASKA NATIVE BROTHERHOOD, ROBERT WILLARD, EXECUTIVE VICE
PRESIDENT, RE: TITLE 36 - ALASKA STATUTES.

The Alaska Legislature has before it Senate Bill No. 172 and House Bill No. 378, "An Act relating to wage rates on public construction," or the so-called "Little Davis-Bacon Act."

The Alaska Native Brotherhood is the recipient of a State appropriation in the amount of one million dollars (\$1 Million) to construct a Juneau Pilot Project - Community Building. Upon notification that the Governor would sign the appropriation measure into law, the ANB immediately proceeded with development planning. In this process encounter came to Title 36 of the Alaska Statutes namely the Little Davis-Bacon Act (hereinafter Davis-Bacon).

If the ANB Project were to fall under the interpolation and application of Davis-Bacon, it goes without question that the costs would increase by 25 - 30%. A value engineering report by qualified consultants have confirmed this reality.

In our opinion, and that of our consultants, if strict application of Davis-Bacon had been applied, this project would not have been feasible, because of the escalated costs.

It should be made clear that the Alaska Native Brotherhood, or its affiliates, is not opposed to unions -- or organized labor. There are some union or contractor practices which we are not in total agreement, but in the overall sense, the ANB is not necessarily averse to unions.

Upon reflection of the ANB project, and that of some projects which have been administered by the Tlingit and Haida Regional Housing Authority over the past ten years, it can be shown that full application of the Little Davis-Bacon Act resulted in increased construction costs

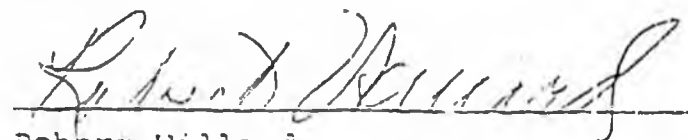
and created artificial costs of labor, thus decreasing the number of housing units that could have been built. Tlingit and Haida administrators estimate that by virtue of full application of the Davis-Bacon Act 23 - 27% more housing units could have been built. That equivalates to approximately one hundred and fifty (150) more families that could have had homes. The imposition of Davis-Bacon interpolated and applied to the rural areas have resulted in the creation of artificial costs of labor.

It is not the intent of the ANB to move towards the minimum wage. It is our concern that the "prevailing wage" as set by the Department of Labor in the populated areas and, as applied to the adjacent rural proximity of that urban center may not be reflective of the fair market value of labor and skilled services in the broad spectrum of enterprise in Alaska.

Moreover, this reality may be influenced by special interest groups such as unions and/or organized general contractors, and artificial influences such as labor-related requirements imposed by this legislation.

The Alaska Native Brotherhood, and its affiliates, urge passage of Senate Bill 172 and House Bill 378 thereby repealing Alaska Statutes 36.05.

Signed:



Robert Willard
Executive Vice President
Alaska Native Brotherhood
318 W. Willoughby Avenue
Juneau, Alaska 99801

BUS: (907) 586-2049
586-3301



MAY 3 1983

City of Anvik

ALASKA, 99558 / (907) 663-6328

April 27, 1983

Senator John C. Sackett
Pouch V
Juneau, Alaska 99811

Dear Mr. Sackett:

In regards to your letter, which I recieved today, we the City Council of Anvik are in full support of SSSB 172, that you have recently introduced which would repeal the Little Davis Bacon Act in Alaska if passed.

Freedom to operate in the most cost effective way is very important to us out here in the bush, especially in the smaller villages, such as our's, when sometimes funds are distributed by the state, and from other source's by per capita. In a small place like Anvik that would not give us much to work with if we have to pay Little Davis Bacon Wages. With having to pay such high wages the funds would decline considerably fast.

We have enough people here who are skilled in various categories to fulfill our needs, without going outside the village and hiring someone to come in and do a certain job, and have to pay them these high wages.

Again, we are in strong support of SSSB 172.

Sincerely,

Robert Walker / by C.J. Vandenberg City Clerk

Robert Walker, Mayor
City of Anvik

MAY 3 1983

CITY COUNCIL OF MOUNTAIN VILLAGE

P.O. BOX 204 · MOUNTAIN VILLAGE, ALASKA 99632 · (907) 365-8001

April 28, 1983

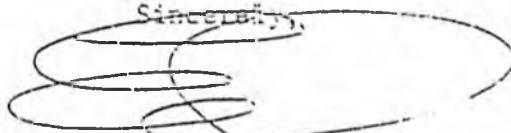
Senator John C. Sackett
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett,

I strongly support your sponsorship of Senate Bill #172, which would, if successful, repeal the Little Davis-Bacon Act in Alaska.

As the need for State of Alaska funding for the City of Mountain Village capital projects continue to increase from year to year, I see clearly the need to reduce labor costs. As labor costs are cut, I foresee the increase in the State of Alaska funding of other village projects.

Sincerely,



Ed beans
Councilmember

cc: Governor Bill Sheffield
Representative Vern Hurlburt

MAY 3 1983

Box 335
Homer, Alaska 99603



REPLY TO:

- City Hall
Ph. (907) 235-8121
- Port of Homer
Ph. (907) 235-8597
- Harbor Master
Ph. (907) 235-8959
- Public Works Dept.
Ph. (907) 235-8120
- City Engineer
Ph. (907) 235-6368

April 27, 1983

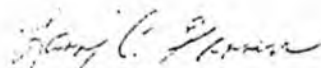
The Honorable John Sackett
Senate Finance Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett:

Regarding your letter of April 23, 1983 concerning SSSB 172, please note the Homer City Council has previously passed a motion in favor of this bill (at the regular City Council meeting of April 11, 1983). A copy of the minutes reflecting this motion is enclosed.

Thank you for the opportunity to comment on this legislation.

Very truly yours,


Larry C. Farnen
City Manager

LCF/PB

enclosure

MAY 2 1983

Nulato City Council

Nulato, Alaska 99765
Phone: (907) 898-8001

April 26, 1983

Senator John Sackett
Alaska State Legislature
Pouch V
Juneau, AK 99811

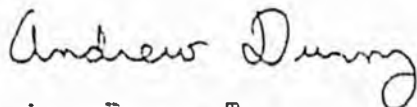
Dear Senator:

This is to let you know that we support Legislation (SSSB 172), to repeal the Little Davis-Bacon Act in Alaska (SSSE 172).

Almost all capitol projects of the City of Nulato are funded directly or indirectly by the State. Declining state revenue and increasing difficulty of acquiring state funding make it more important to stretch each available dollar as far as it will go. In attempting to achieve this goal of effective and efficient use of state funding, the City of Nulato finds the Little Davis-Bacon Act not only counter-productive but harmful as well, since it would reduce cost-efficiency on capitol projects and create an inflated wage scale on other programs as well. The City of Nulato feels that it would be almost impossible to provide capitol improvements as well as other municipal programs if union-level wages are mandatory. Projects such as water and sewer system, road improvements and public facilities could be threatened. In effect, necessary projects and programs that would benefit all citizens of Nulato could be threatened by an attempt to benefit a limited number of employees.

We feel that the Little Davis-Bacon Act does not allow for efficient use of available funds (not just for the City of Nulato but for all recipients of State funds). We feel that if the Little Davis-Bacon Act is repealed, we could provide a much more efficient use of available State funds, while still paying a fair wage to employees. The more efficiently and effectively we can spend available State funds, the more will be left available for future spending; at the same time, if funds can be effectively spent, the need for additional funds may actually decline. For these reasons, we ask for your support in repealing the Little Davis-Bacon Act in Alaska.

Thank you,



Andrew Durny, Treasurer
City of Nulato

MAY 2 1983

CITY OF AKOLMIUT

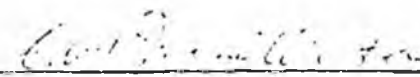
C/O CITY CLERK - NUNAPITCHUK, ALASKA 99641 - (907) 527-5327

April 27, 1983

Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Please find resolution 83-15 with reference to a need for repeal or amendment to have the money go further in construction and more appropriations to rural villages. If this requirement is met by villages throughout Alaska they wouldn't have a chance of finishing the project(s) as anticipated and work would be rushed and thereby constructed poorly.

Please consider this resolution so that the States Capital could go further in development and make everybody happy. Thank-you.



Mayor Robert Nick

RN: ejv

CC: House & Senate Committee Chairman(s)
Honorable Anthony Vaska

City of Akolmiut
Resolution 83-15

Resolution for repeal of the Little Davis-Bacon Act in Alaska.

WHEREAS, the City of Akolmiut at Nunapitchuk is a rural village of 354 people and direly in need of funds to develop City service projects; and

WHEREAS, the State of Alaska has adcpeted a constitutional spending limit Statewide because of declining oil revenues; and

WHEREAS, a persistent need of funds to construct and maintain schools, water & sewer projects, airports, etc. are inflated due to the requirement stipulated under the Little Davis-Bacon Act for Alaska; and

WHEREAS, the States Capital could be distributed more evenly and rural Communities like Nunapitchuk could be awarded much needed basic needs like an airport; and

WHEREAS, the Reagan administration has cut federal programs drastically in U.S. thereby greatly increasing rural villages dependence in the State of Alaska; and

WHEREAS, rural villages are almost always denied much needed basic needs (services) by the Alaska Legislature,

NOW THEREFORE BE IT RESOLVED THAT, the City Council of Nunapitchuk request the Alaska State Legislature to consider repealing the Little Davis-Bacon Act in Alaska and (or) make an amendmnet to the Act to say that Communities with populations of 5,000 or less not be affected by this Act.

PASSED AND APPROVED THIS 26 DAY OF April, 1983.

Robert Nick
Mayor

John H. Carlson
Council Member

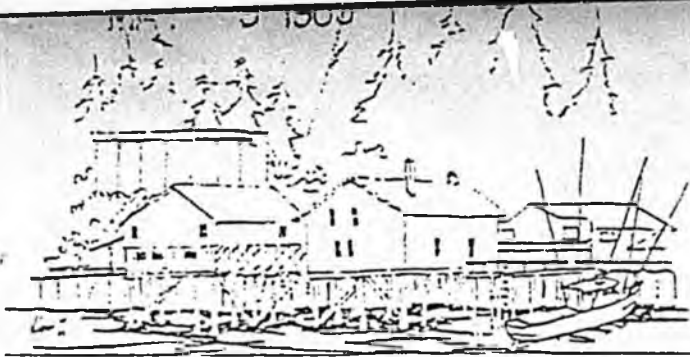
Vice Mayor

Council Member

James J. Stenhouse
Council Member

Council Member

Charles P. R. 1110
Council Member



City
of
Pelican

BOX 757

PELICAN, ALASKA 99832

PHONE 735-4101

May 3, 1983

Senator Dick Eliason
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

The City Council of the City of Pelican is in support of HB304 exempting municipalities with a population less than 5000 from the "Little Bacon-Davis Act."

It is a hardship for small communities to pay state prevailing wage. While we support local hire and proper compensation for labor, the results of the "Little Bacon-Davis Act" has prevented construction of much needed projects in small communities.

We appreciate your consideration.

Sincerely,

Harry A. Davidson
Harry A. Davidson
Mayor

HAD/ec

CC: Senator Don Bennett
Senator Bob Mulcahy
Senator Patrick Rocey
Senator John Sackett ✓

REPRESENTATIVE ADELHEID HERRMANN
Testimony on HB 304
House Labor and Commerce Committee

May 2, 1983

Mr. Chairman,
I introduced HB 304 in response to problems in my district with what's known as the Little Davis Bacon Act. After talking to municipal officials, village council presidents and members of nonprofit corporations from other areas of the state, I came to realize that the prevailing wage law is unreasonable for rural Alaska. As you know, Little Davis Bacon requires that whenever a contract is let for public works construction, a specific minimum wage must be paid. If a municipality, village or nonprofit corporation uses its tax revenues or state grants for public construction projects, they must pay a carpenter \$26.57 per hour in wages and benefits, an electrician \$32.86 per hour, and a general laborer \$24.47 per hour. These rates are also the union rates of pay. I believe there is a green booklet in each member's file which lists the pay rates.

In most municipalities with a population less than 5,000, and in all the unincorporated communities, people are not used to getting union wages. Everyone may like to be paid union scale, of course, because it's the highest wage you can get. Local contractors find that having to pay the maximum wage is disruptive to their operations. Those people who are lucky enough to get on a public works project get union scale, but those who are working on private projects get less. Little Davis Bacon effectively imports union wage rates into areas where they were not part of the economy before. This indirectly inflates the cost of other construction projects by bringing high union wages into nonunion areas. Especially in villages where work is scarce, Davis Bacon causes hard feelings between workers who are paid different rates.

The Department of Community and Regional Affairs supports HB 304 because it believes the current system discourages local hire. The reasoning for this is, if you have to pay union scale, why not hire union workers? If there is a local person who is willing to pound nails for \$16.00 an hour, but the contract says you must pay \$22.00, why not hire the union worker who you believe to be more experienced? If you have to pay the highest wage, why take the time to train someone who is inexperienced?

The Little Davis Bacon issue came to my attention when I found out that two grants made previously for projects in my district did not contain enough money if the prevailing wage rates had to be paid. In the case of Koliganek, (population 115) a legislative appropriation was secured for electric distribution. The village council had written up the grant proposal and local labor was to be used. Now the council has found out they must pay union wages and there isn't enough money in the grant to do that. The same thing happened for a Dillingham project. In Bethel, it was estimated that \$300,000 more would be needed to pay prevailing wages for the construction of a women's shelter. \$75,000 more is needed for the Nome Receiving Home. You can see we aren't talking about nickels and dimes.

The point is, Little Davis Bacon is not the prevailing wage in rural Alaska, it is the union wage charged in the cities. Projects cost more in rural Alaska and a lot of the cost is taken up by imported union labor. It inflates the cost of public construction projects and so shrinks the amount of money available for other capital projects. The fewer capital projects built, the fewer people put to work. It causes divisiveness in communities by paying some people high union wages while those working on private construction get less. Some people fear that doing away with Little Davis Bacon will allow for the importation of labor from the Lower 48. Chapter 10 of Title 36, the Residence Preference Law, says that 95% of the workers on a public works project must be Alaska residents. Some people fear that unreasonably low wages will be paid on public construction projects, but I have more faith in the city councils and village councils not to cheat their people. Union people say unscrupulous Alaskan contractors will bring in crews of underpaid workers. But how do you think local residents feel when highly paid workers are imported into an area? This, of course, hasn't been a big concern of the union people. Some unions do hire locally but residents have to join the union - what good does that do for local people?

Organized labor has a clear economic stake in this because whenever it maintains high labor rates, unionized contractors can compete effectively and thus obtain more jobs for union members. With Little Davis Bacon, the wage scale is set at a predetermined rate, wiping out much of the competitive advantage non-union laborers might have. The fact is, many of the small public projects constructed in rural Alaska in recent years were not done in compliance with Little Davis Bacon. Villages received grants from Community and Regional Affairs or the Department of Environmental Conservation and built their health clinics or sanitary landfill themselves. Local residents resent what they consider to be additional restrictions and know it's hard enough getting legislative grants these days without increasing the cost of labor. Lately, the issue has received a lot of attention due to several attorney general's opinions and more widespread knowledge of the law.

Thank you, Mr. Chairman, for this opportunity to speak on HB 304. I know the committee will hear much testimony on this issue. I hope it will listen carefully to the concerns of rural Alaska. I know there are two strong opposing sides to the issue. Mr. Chairman, I believe you saw one side on April 26 when you scheduled HB 304 for a hearing in Juneau. With this teleconference tonight, I hope you will hear a little bit more from the other side.

I'm also hoping you will keep the bill active, so both sides can work on a solution to the problem. Thank you.

HB 304 TELECONFERENCE HEARING

HOUSE LABOR & COMMERCE COMMITTEE

May 2, 1983

Members present: Representative Walt Furnace, Chairman
Representative John Ringstad
Representative Rick Uehling
Representative Hugh Malone
Representative John Cowdery

Others present: Representative Adelheid Herrmann
Representative Milo Fritz
Representative Mike Davis

House Bill 304 An Act relating to wage rates on public construction; and providing for an effective date.

Sponsor: Adelheid Herrmann Introduced: 4/26/83

TESTIMONY

Cordova - Jim Todds - Supports HB 304 and recommends passage of this bill.

Cordova - Terry Luvick, City Manager supports Senator Sackett's bill. Mentioned "wage problem"--We have greater needs than money can take care of...City didn't need enough money to build project. We are not by law to pay city employees prevailing wages...We didn't have sufficient funds to pay _____ contract. Even if we do have enough money, I do have a problem paying wage scale--\$10.00 an hour...

Malone's answer to the following question: On your cost estimates how do you prepare wages? We used to use Bacon wages, however, we are not always fortunate enough... Our area gets 100% of specific funded bond projects we might have... In entire contracting, there's a question in the State of Alaska. "Force Account System"--these City employees that would do the work funded by State or local bond issue. The City employee carpenter gets \$15.00 hourly wages, whereas his wages in Davis Bacon would be \$26.00 to \$27.00 hourly.

Unalaska - Ron Lappee, Director of Finance for the City - Heavily supports passage of HB 304. It would reduce the cost of public construction in rural Alaska. It would also keep the money in the local community because of local hiring.

Rep. Cowdery - Does the City at the present perform work within the City's boundaries under the maintenance and construction work force on the municipal

employee pay scale? He then asked what that pay scale was compared to the Little Davis Bacon Act.

Mr. Lappee - Wages are considerably less; \$15.00 carpenter. (Little Davis Bacon - \$26.00 carpenter)

Rep. Cowdery - A carpenter receives \$26.57 under the Little Davis Bacon Act. The prevailing wage is \$15.00 for Unalaska?

Mr. Lappee - Yes, that is correct.

Rep. Cowdery - In Juneau, a carpenter receives \$22.02, with a total of \$26.57 including all fringe benefits.

Mr. Lappee - The community wage rates are lower than Little Davis Bacon. Our private contractors would have a much better chance at bidding on the work with local workers, if they didn't have to go by Little Davis Bacon wages.

Rep. Cowdery - He stated that he understands that and asked how they have been operating in the past. Have they been using Little Davis Bacon with their grants or have they been using the local prevailing wage to do their projects?

Mr. Lappee - The majority of the larger projects, that we've done in Unalaska, have gone outside of the community and have used Little Davis Bacon. The cost for construction of the airport terminal is going to be high because of Little Davis Bacon.

Rep. Cowdery - Do these outside contractors use local labor that is available, or do they bring in their own workers?

Mr. Lappee - In the past it has been about half and half.

Rep. Cowdery - It would seem that it would be beneficial to the contractors to hire as much local help because there wouldn't be a housing problem or a commuting complication.

Mr. Lappee - It seems like they have hired the subcontractors with the local labor, but have also brought in large work forces too.

Rep. Cowdery - Do you know of any cases where they didn't pay the prevailing wages when hiring the local people?

Mr. Lappee - They still paid the prevailing wage when hiring locally.

Juneau - Representative Adelheid Herrmann - Speech

Galena - Pat Meyer - Little Davis Bacon Act increases our construction costs. It is \$27.80 for carpenters paid under the grants and \$15.00 is paid locally. Maintenance wages are \$14.00-\$19.00, including fringe benefits. It causes a moral problem, when the local workers with more responsibilities, are receiving less pay for their full time jobs, than the people working on government projects for part-time.

Homer - Mayor Earl Cooper - Local wage rates in the area for carpenters, truck drivers, etc. are \$10.00-\$15.00. Little Davis Bacon would run the wage rate at about \$25.00-\$30.00. It makes the projects far more expensive than they should be.

Rep. Furnace - HB 304 is an act relating to public construction wages. A person from Unalaska said that they are using the Little Davis Bacon wages in putting together the grant requests, are you doing the same thing and still having problems with receiving sufficient monies to carry out the work requested in the State grants?

Mayor Cooper - No, we don't have problems with receiving enough money. When we apply for a grant, we figure in what the prevailing wage will be under Little Davis Bacon. We are under the same wage constraint for local projects also. Even then it runs the cost of all projects considerably higher.

Rep. Furnace - What is the average contract that you would normally be entertaining through non-state grants?

Mayor Cooper - We have an on-sale coming up for a \$4.5 - \$5 million water line which will be non-state grant, with local funds. There are also a few other projects. We could better utilize our money by not having to pay Little Davis Bacon wages.

Rep. Cowdery - Do you have any idea of how the prevailing wage rate is determined? What percentage of the work force is it?

Mayor Cooper - Prevailing wage of Little Davis Bacon is the union wages negotiated for the Anchorage area.

Rep. Cowdery - Are you positive that it's just for the Anchorage area, or is an average taken for the towns like Fairbanks, the interior towns, and statewide?

Mayor Cooper - My understanding is that the State is in 2 or 3 different zones. The Little Davis Bacon prevailing wage is different in these areas.

Rep. Cowdery - The Department of Labor monitors this, is that correct?

Mayor Cooper - Yes, they monitor the project to be sure that the various agencies are paying what those wage scales are. They also send out a rate stating what the minimum wage under Little Davis Bacon will be.

Wrangell - Jim McDonald - Asked something about bringing in somebody from down below.

Rep. Furnace - I would assume there is nothing to keep a contractor from coming in to a particular community to do work. I would assume they would have to bid the contract competitively and in a community, they would have the opportunity to choose a contractor.

(Mr. McDonald asked another question, but I couldn't understand what he asked.)

Rep. Ringstad - What you're addressing is the local hire laws which is on the books but isn't being enforced all that well.

Rep. Furnace - Sec. 36.10.010 of the statutes was read. 95% of the residents should be employed for a project funded by a state grant.

Haines - Ron Smith - Totally against altering the Little Davis Bacon Act. He feels it will be abused by contractors. The reason the municipalities don't pay the prevailing wage is so they can cipher money off that can be used elsewhere, or they can pay a lower rate so they can hire more of their friends and relatives.

Haines - Ward Gray - Repealing the Little Davis Bacon Act would bring outside contractors in. My union by-laws require a full pledge member to work out of the the union three full years, consecutive years in which would insure employment of rural Alaskans.

Rep. Cowdery - I don't think Little Davis Bacon is union, it's prevailing wages. It doesn't require that you belong to a union. Mr. Gray - True, if you're talking about lowering a wage down to \$15.00 an hour, our union will not be able to compete.

Haines - Alvin Pearson - Keep the union scale for better quality of workmanship.

Haines - Rodney Arins - Against HB 304. These smaller villages that are having problems trying to work out the wages set by Little Davis Bacon may find loopholes to get around it. Little Davis Bacon has helped to set the amount that I make and the job that I have. Without this, I wouldn't be able to stay in Alaska year round.

Mountain Village - Brown - (Couldn't understand what he was saying, but that he was for HB 304)

Nome - Ivan Widam, City Manager - Little Davis Bacon requires that a higher wage be paid which causes a much higher cost for construction in the Bush. The way the wage rates are put together, there are areas 1, 2, & 3. Our costs for carpenters are \$27.80 per hour. When projects are being built, most of the local carpenters are employed elsewhere in the community. Therefore, to hire locally, we would have to hire laborers and pay Little Davis Bacon \$27.80, which we would then be better off hiring a skilled carpenter from out of town. Another problem is we lose employees to the projects. Once they get used to the high pay, they will no longer choose to work for the City who pays lower wages. The City cannot afford to pay those high wages. When someone is hired from outside, the contractor has to pay for room and board which comes out of the State's pocket or whoever is funding the project. There are also paperwork problems related to the Little Davis Bacon Act. Supports HB 304 and SB 172.

Juneau - Susan Ponn - Against repeal of Little Davis Bacon Act. It would lower working conditions and wages.

Kotzebue - Susie Urlik - In statutes "residency" & "local hire" are addressed. "Residency" in statutes would lead one to believe that it is the

person who is actually living in the City who gets preference. Then you look at "local hire" and it addresses that it's being statewide. The question is then how to reconcile and which takes preference over what. The second area of concern in regards to the state constitution, where it requires that all individuals or citizens of Alaska be treated fair and equal. Now in my mind, this particular act would certainly deviate from that, treating the people in the large cities in one fashion, while treating the people in the small villages in another fashion. I'm wondering if the state legislature has seriously addressed that issue. The third issue that I have is pertaining to all... (Blank-out in tape)...it really has to be taken into consideration. And the fourth and final is that if you lessen or remove Little Davis Bacon, we do stand the danger of losing, and our men losing a significant amount of pay. While at the same time, the costs of goods continue to rise. We already have a bad enough time in making our survival in the Bush without confronting that problem.

Rep. Furnace - Thanked Susie and stated that she had asked some very profound questions. He asked for her address so he could respond back to her by letter in reference to her questions. Asked if it was Box 725, Kotzebue, Ak.

Susie - Yes, that is correct.

Bethel - Don Bouyat. Director of Capital Projects for the City of Bethel, representing the City of Bethel. The City of Bethel wishes to go on record supporting HB 304 / SB 172. Little Davis Bacon Act as it appears on the books and is administered through the Department of Labor is nothing more than a government feed trough perpetuated at the insistence of organized labor. Basic idea behind the law had merits and that it mandates the prevailing wages in an area be paid on government sponsored construction projects, in order to eliminate "cut-throat" competition at the expense of the working man. But its enforcement insures that the non-competitive aspects of union construction, that is, high wages and restrictive work rules remain in wide use on government assisted construction projects. The State of Alaska with it's oil revenue embarked on a large-scale development program in an attempt to develop Alaska's infrastructure to a point where Alaska's private economy can flourish on a long-term basis, and therefore, benefit all Alaskans with more employment opportunities. We agree entirely with this approaching concept. We're using non-renewable or thriving economy that won't be subject to the boom and bust fluctuations here at ? experience. However, it would seem only sensible if the State of Alaska would do everything in its power to get the most worth money. Title 36 or Little Davis Bacon mandates that an artificially high price be paid for labor, and all state-sponsored or assisted projects, indicating the variables of labor and inflating the overall costs of all projects. That overly high price for labor, then falls over into the labor wages paid in the private sector, thereby driving up the cost of doing business all the way around. Labor is and should remain a variable cost negotiated with unions and/or with a contractor's work force. It should not be set by the government. The City of Bethel is attempting to do within the city limits, what the State of Alaska is attempting to do with the entire state. That is, building infrastructure that can adequately react to growth in a community and create an environment in which private enterprise can flourish. Most of our projects are paid for with state grants. Because of this, we are required to pay Little Davis Bacon wage rates. During the recent construction of a new public works building for the City of Bethel, Title 36 requirements increased the total

project costs by 10%. The increase in labor cost was approximately 25%. This size increase has an enormous impact on a community like Bethel with limited sources of revenue. Public works building was built with local funds, yet we still were required to adhere to title 36. The overhead of the governmental entity, as well as the contractors also increases due to the extra reporting requirements contained in the Little Davis Bacon Act. It simply costs everybody money. Labor costs associated with constructing Bethel's new petroleum products dock, averaged \$49.49 per man hour over the life of the job. This included wages and benefits as required by Little Davis Bacon. I don't need to explain the financial impact of carrying a wage scale like that over a six month construction period. The cost becomes staggering. In this instance, the State of Alaska paid those costs through a municipal grant. It is a cost that the state nor the municipality needed to incur, except for the archaic requirements of Little Davis Bacon. All small municipalities must undertake other relatively small construction projects to accommodate growth and change. Little Davis Bacon must still prevail, there-in driving up the cost of meeting nearly every need. On some small projects we've experienced up to a 33% differential between the Davis Bacon and non-Davis Bacon bids. 33% hike in the cost of meeting and accomodating growth can charge places an undue burden on already strapped finances of small communities. We're also missing the boat in another area because of the Little Davis Bacon Act, that is, in the area of job training. I know of no employer that is willing to train workers while paying the labor costs mandated in Little Davis Bacon. Those of us in rural Alaska, must therefore stand idly by to watch workers come in from outside, while unemployed local workers remain unemployed and cannot get the training and experience required to enter the work force. There workers then end up in the unenviable position at the end of the unemployment line. We cannot blame the contractors for this, for it is a purely economic decision. The tide must change. People of rural Alaska should not have to stand by, while other people come in and reap the benefits of our efforts. Economic self sufficiency is something we're all striving for. We cannot achieve it under existing conditions of Little Davis Bacon. A Labor lobbyist stated that by repealing the Little Davis Bacon Act, communities will be losing out in the long run, who will lower quality workmanship. We have not found this to be the case. By using responsible bidding procedures and awarding to reputable contracting firms, the quality of workmanship has not and will not suffer. The new city utility building that I talked about a minute ago, was put out to bid without requiring Little Davis Bacon wages. Halfway through the project, the Department of Labor required us to upgrade wages to Davis Bacon standards for the remainder of the project. The quality of workmanship was the same throughout the project. We saw absolutely no difference. To wrap it up, the Little Davis Bacon Act was devised for another time and we feel that we've transcended that time. Labor will get the wages deserved and we are not trying to short change the working person. We are trying to get the most we can for our construction dollar. With Little Davis Bacon in place, we cannot achieve that goal. We support all efforts to totally repeal Little Davis Bacon Act. Thank you.

Juneau - Joseph Newman - I believe that in repealing the Little Davis Bacon Act, what is going to happen is that you are going to have contractors using that - the wages, in dropping the wage to get their bids. Of course, but they are going to bring up their own work force. Chapter 10 does not work at all. Simply because all you have to state is, all right I brought the men,