

ALASKA LEGISLATURE COMMITTEE FILES 1909-1900 00/2

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HB 367

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Jeanie Henry

House Judiciary

5-2-86

1:30 pm

CSSSHB 367 (L&C)
Presented to House Judiciary Committee
May 2, 1986

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05/02/86
drb

Offered: 4/15/86
Referred: Finance

Original sponsors: Josephson, Kerttula,
V.Fischer, et al

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 271 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act requiring resident hire on certain natural
7 resource projects on state land; and providing for an
8 effective date."

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

10 * Section 1. AS 38 is amended by adding a new chapter to read:

11 CHAPTER 45. RESIDENT EMPLOYMENT PREFERENCE UNDER STATE LEASES.

12 Sec. 38.45.010. STATE POLICY. It is the policy of the state to
13 develop its natural resources to provide the maximum benefit to the
14 people of the state as required by the Constitution of the State of
15 Alaska. These benefits include employment opportunities in natural
16 resource development projects for residents qualified for the employ-
17 ment, as well as receipt of state revenue from the development.

18 Sec. 38.45.020. LEGISLATIVE FINDINGS. The legislature finds:

19 (1) the findings made in AS 36.10.005 continue to accurately
20 describe the social, economic, and employment situation in the
21 state;

22 (2) chronic unemployment can breed severe social problems
23 including alcoholism and domestic violence;

24 (3) the findings of the Department of Labor of the State of
25 Alaska in its report entitled "Nonresidents Working in Alaska; A
26 Special Study to Measure the Economic Impact of Nonresidents on
27 Alaska's Economy During Calendar Year 1984" support the need for a
28 resident hiring preference;

29 (4) there is a need for timely, accurate information on the

1 number of nonresident and resident workers in industries in the state;

2 (5) the state has a continuing interest in determining
3 whether indirect benefits, including employment opportunities, from
4 state expenditures, natural resource projects, and agreements concern-
5 ing the state's natural resources accrue to residents of the state or
6 to nonresidents;

7 (6) a major factor in the unemployment problem is the
8 failure of some employers engaged in the exploration, development, and
9 production of natural resources on state land, and under leases or
10 other agreements granted or permitted by the state, to employ state
11 residents;

12 (7) whereas at an earlier stage of the state's history it
13 was asserted that high unemployment in the state was due to cultural
14 and geographical migration barriers, the state now has many residents
15 who are qualified, trained, and available for employment in the explo-
16 ration, development, production, and extraction of natural resources
17 on state land;

18 (8) the state has made significant investments in training
19 programs and vocational education to help furnish industry with qual-
20 ified residents able to work in the development, exploration, produc-
21 tion, and extraction of natural resource products on state land;

22 (9) the state's investment in these training and education
23 programs will be of little avail unless state residents receive em-
24 ployment opportunities in natural resource projects on state land;

25 (10) employment of nonresidents displaces qualified resi-
26 dents from work in the development, exploration, production, and
27 extraction of natural resource products on state land; therefore, the
28 number of nonresidents hired for work on state land in the develop-
29 ment, exploration, production, and extraction of state resources is a

1 peculiar source of the unemployment problem now besetting the state;

2 (11) the number of state residents who are unable to find
3 work is considerably higher than is reflected by unemployment rates
4 based on nationally accepted measures;

5 (12) many rural state residents who wish to work do not seek
6 employment as frequently as necessary to meet federal definitions of
7 unemployment because of continuing lack of employment opportunities in
8 rural areas of the state.

9 Sec. 38.45.030. UNAVAILABILITY OF PREFERRED WORKERS. (a) An
10 employer subject to hiring requirements under this chapter may request
11 the Department of Labor to assist in locating qualified, eligible
12 employees. After receiving a request for assistance, the department
13 shall refer qualified, eligible, available residents to the employer
14 to fill the employer's hiring needs.

15 (b) If the department is unable to refer a sufficient number of
16 qualified, eligible, available residents able to perform the work, the
17 commissioner of labor may approve the hiring of residents who are not
18 eligible for preference and nonresidents for the balance of the re-
19 quest.

20 Sec. 38.45.040. EMPLOYEE QUALIFICATIONS. An employer shall
21 determine and judge the work qualifications of applicants for employ-
22 ment.

23 Sec. 38.45.050. REGULATIONS. The commissioner of labor shall
24 adopt regulations in accordance with AS 44.62 (Administrative Proce-
25 dure Act) to implement this chapter and encourage and require the
26 hiring of residents to the maximum extent permitted by law.

27 Sec. 38.45.060. RESIDENT HIRE REPORT. The attorney general and
28 the commissioner of labor shall report annually to the legislature and
29 the governor on the status of employment in the state, the effect of

1 nonresident employment on the employment of residents in the state,
2 and methods to increase resident hire. The report shall be submitted
3 by January 31 of each year.

4 Sec. 38.45.070. ELIGIBILITY FOR PREFERENCE. (a) A person is
5 eligible for an employment preference under this chapter if the person
6 certifies eligibility as required by the Department of Labor, is a
7 resident, and

8 (1) is receiving unemployment benefits under AS 23.20 or
9 would be eligible to receive benefits but has exhausted them;

10 (2) is not working and has registered to find work with a
11 public or private employment agency or a local hiring hall;

12 (3) is underemployed or marginally employed as defined by
13 the department; or

14 (4) has completed a job-training program approved by the
15 department and is either not employed or is engaged in employment that
16 does not use the skills acquired in the job-training program.

17 (b) An employer subject to a resident hiring requirement under
18 this chapter shall certify that persons employed as residents under
19 the preference were eligible for the preference at the time of hire.

20 Sec. 38.45.080. DETERMINATION OF UNDEREMPLOYED AREA. (a)
21 Immediately following a determination by the commissioner of labor
22 that a census area, economic region, or the state as a whole is an
23 underemployed area and for the next two fiscal years after the deter-
24 mination, qualified residents who are eligible under AS 38.45.070
25 shall be given preference in hiring for work on each natural resource
26 project on state land that is wholly or partially sited within the
27 area.

28 (b) The commissioner of labor shall determine the amount of work
29 that must be performed under this chapter by qualified residents who

1 were eligible for an employment preference under this chapter at the
2 time of hiring. In making this determination, the commissioner shall
3 consider the nature of the work, the classification of workers, avail-
4 ability of eligible residents, and the willingness of eligible resi-
5 dents to perform the work.

6 (c) The commissioner shall determine that a census area, econo-
7 mic region, or the state as a whole is an underemployed area if the
8 commissioner finds that

9 (1) the rate of unemployment within the area is substan-
10 tially higher than the national rate of unemployment;

11 (2) a substantial number of residents in the area have
12 experience or training in occupations that would be employed on a
13 natural resource project on state land;

14 (3) the lack of employment opportunities in the area has
15 contributed to serious social or economic problems in the area; and

16 (4) employment of workers who are not residents is a pecu-
17 liar source of the unemployment of residents of the area.

18 (d) The commissioner shall define the boundaries of a census
19 area or economic region within which a preference applies. In choos-
20 ing whether to apply a preference to a census area, economic region,
21 or the state as a whole, the commissioner shall apply the preference
22 to the smallest unit that will adequately address the problems identi-
23 fied by the findings.

24 Sec. 38.45.090. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-
25 TRESSED AREAS. (a) Immediately following a determination by the
26 commissioner that a census area or economic region of the state is an
27 economically distressed area, and for the next two fiscal years after
28 the determination, qualified residents of the area who are eligible
29 under AS 38.45.070 shall be given preference in hiring for at least 50

1 percent of employment on each natural resource project on state land
2 that is wholly or partially sited within the economically distressed
3 area.

4 (b) The commissioner shall determine that an area is an econom-
5 ically distressed area if the commissioner finds that

6 (1) the per capita income of residents is less than 90
7 percent of the per capita income of the United States as a whole or
8 the unemployment rate in the area exceeds the national rate of unem-
9 ployment by at least five percentage points;

10 (2) the lack of employment opportunities in the area has
11 substantially contributed to serious social or economic problems in
12 the area; and

13 (3) employment of workers who are not residents is a pecu-
14 liar source of unemployment of residents of the area.

15 (c) If the governor has declared an area to be an area affected
16 by an economic disaster under AS 44.33.285, then the preference for
17 residents of the area established under AS 44.33.285 - 44.33.310
18 supersedes the preference under this section.

19 (d) The commissioner shall define the boundaries of a census
20 area or economic region in which a preference applies. In choosing
21 whether to apply a preference to a census area or economic region,
22 the commissioner shall apply the preference to the smallest unit that
23 will adequately address the problems identified by the findings.

24 Sec. 38.45.100. INCORPORATION INTO CONTRACTS. (a) In order to
25 create, protect, and preserve the right of eligible qualified resi-
26 dents to employment in natural resource projects on state land, the
27 commissioner of natural resources shall incorporate into each con-
28 tract, lease, unitization agreement, or renegotiation of a contract,
29 lease or unitization agreement, provisions requiring compliance with

1 this chapter, regulations adopted under this chapter, and all later
2 amendments to this chapter or the regulations, and authorizing pen-
3 alties under AS 38.45.120 for failure to comply.

4 (b) The commissioner shall incorporate into each contract,
5 lease, unitization agreement, or renegotiation a requirement that the
6 contractor or lessee include in each contract with contractors or
7 subcontractors who will be operating on state land a provision requir-
8 ing compliance with this chapter, later amendments of this chapter,
9 regulations adopted under this chapter, and authorizing penalties
10 under AS 38.45.120.

11 Sec. 38.45.110. REPORTING PROVISIONS. An employer obligated to
12 meet resident hiring requirements under this chapter shall comply with
13 the reporting provisions that the commissioner of labor determines are
14 reasonably necessary to carry out this chapter. Except for statis-
15 tical data, information concerning specific employees is confidential
16 and may not be released to the public by the department. However,
17 confidential employee information may be shared between departments
18 for purposes of this chapter.

19 Sec. 38.45.120. CIVIL PENALTY. (a) The Department of Labor may
20 conduct investigations and hearings to determine compliance with this
21 chapter. After a hearing, if the commissioner of labor finds that an
22 employer has wilfully failed to comply with this chapter, the commis-
23 sioner may impose a civil penalty in the amount of

24 (1) the lesser of \$5,000 or five percent of the compensa-
25 tion to the state under the project, lease, or agreement for the first
26 rejection of a qualified eligible applicant or other violation of this
27 chapter;

28 (2) the lessee of \$10,000 or 10 percent of the compensation
29 to the state under the project, lease, or agreement for the second and

1 each subsequent rejection or other violation of this chapter.

2 (b) In addition to the imposition of other penalties under this
3 section, if the Department of Labor finds that an employer has wil-
4 fully rejected a qualified eligible applicant or terminated a quali-
5 fied eligible employee in violation of this chapter, the department
6 may require the employer to pay the person the amount of wages the
7 person lost and may require additional amounts to reimburse the person
8 for actual expenses incurred as a result of the wrongful action.

9 (c) The commissioner may impose the penalties under this section
10 on an employer only if the employer itself has failed to comply with
11 this chapter, later amendments of this chapter, or regulations adopted
12 under this chapter, or if the employer has failed to incorporate into
13 its contracts the provision required under AS 38.45.100(b).

14 (d) The Department of Labor, in addition to the imposition of
15 penalties under this section, may seek injunctive relief against a
16 person who is not in compliance with this chapter and to enforce
17 penalties imposed under this section.

18 Sec. 38.45.130. PENALTIES FOR APPLICANTS AND EMPLOYERS. (a) A
19 person who makes a false sworn statement in connection with a certi-
20 fication of eligibility for an employment preference under this chap-
21 ter is subject to criminal prosecution for perjury as provided in
22 AS 11.56.200.

23 (b) A person who makes an unsworn falsification, with the intent
24 to mislead a public servant in the performance of a duty, in connec-
25 tion with a certification of eligibility for an employment preference
26 under this chapter, is subject to criminal prosecution as provided in
27 AS 11.56.210.

28 (c) In addition to criminal penalties imposed by state law, if a
29 person is convicted of a crime in connection with a false statement

1 made in a certification required under AS 38.45.060, and the conviction
2 tion is not reversed, that person shall forfeit all future rights to
3 eligibility for an employment preference under this chapter.

4 Sec. 38.45.200. APPLICABILITY OF CHAPTER. This chapter applies
5 to all natural resource projects on state land. The preference applies
6 only to employment that is performed directly for an employer.

7 Sec. 38.45.250. DEFINITIONS. In this chapter

8 (1) "available" means physically present at the place of
9 hire at the time requested by the employer;

10 (2) "employer" means a person other than the state who is a
11 party to a contract, lease, or unitization agreement for a natural
12 resource project on state land and the person's affiliate, principal,
13 subsidiary, contractor, or subcontractor if the activity of the affiliate,
14 principal, subsidiary, contractor, or subcontractor is performed
15 on state land;

16 (3) "natural resource project on state land" means a project
17 authorized by a contract, lease, unitization agreement, or a
18 renegotiation of a contract, lease, or unitization agreement for
19 exploration, development, extraction or production of oil and gas,
20 leasable mineral, or timber resources if the state is a party to the
21 contract, lease or unitization agreement and the project is performed
22 in whole or in part on state land;

23 (4) "qualified resident" means a resident who possesses the
24 requisite education, training, skills, or experience to perform the
25 work;

26 (5) "resident" means a person who establishes residency
27 under AS 01.10.055;

28 (6) "state land" means all land, including shore, tide, and
29 submerged land, belonging to or acquired by the state.

1 * Sec. 2. AS 38.45, enacted in sec. 1 of this Act, applies to a lease,
2 unitization agreement, or contract for the development of oil and gas,
3 leasable mineral, or timber resources entered into on or after the effec-
4 tive date of this Act and to a renegotiation of the lease, unitization
5 agreement, or contract. AS 38.45 applies to the renegotiation on or after
6 the effective date of this Act of a lease, unitization agreement, or con-
7 tract entered into before the effective date of this Act if the renegotia-
8 tion results in a major change in the duties of a party.

9 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
10 10.070(c).

SECTION ANALYSIS FOR CSSSHB 367 (L&C)

- Section 1 Establishes new chapter 38.45 Resident Employment Preference Under State Leases.
- 38.45.010 Declares that state policy is to maximize benefits to people from development of natural resources and these benefits include employment opportunities.
- 38.45.020 State the problems associated with unemployment and the need for more data to accurately reflect level of nonresident hire.
- 38.45.030 States that Department of Labor will assist employers in finding qualified workers and, if unable to find sufficient number of resident workers, the Department of Labor may approve of hiring of nonresidents.
- 38.45.035 States that employer has final decision on hiring.
- 38.45.040 States that commissioner of labor shall adopt regulations under Administrative Procedures Act.
- 38.45.050 Requires attorney general and commissioner of labor to report annually to legislature and governor on status of employment in state.
- 38.45.060 Establishes eligibility for a resident employment preference. A person must certify to the Department of Labor that he or she meet one of the following criteria:
- a) is receiving unemployment benefits or has exhausted them
 - b) is not working and has registered to find work with a public or private employment agency or a local hiring hall
 - c) is underemployed or marginally employed as defined by Department of Labor
 - d) has completed job training program but is not employed or using those skills
- 38.45.070 Sets forth criteria for the determination of an underemployed area. After the commissioner of labor has determined an underemployed area, and for two years following, the employment

preference will be in effect. In an underemployed area, the commissioner of labor shall determine the amount of work to be performed by eligible qualified residents. An underemployed area may be a census area, an economic region, or the state as a whole if the following criteria are met:

- a) the unemployment rate is substantially higher than the national rate
- b) a substantial number of residents in the area have experience or training
- c) the lack of employment opportunities has contributed to serious economic and social problems, and
- d) employment of nonresidents is a peculiar source of the unemployment of residents

38.45.080

Provides a preference for residents of an economically distressed area. The commissioner of labor shall determine an economically distressed area, and for two years the resident preference will apply. In an economically distressed area, 50 percent of the employment on each natural resources project on state land shall be given to eligible qualified residents of the area. An economically distressed area must meet the following criteria:

- a) per capita income is less than 90 percent of U.S. per capita income or the unemployment rate is at least 5 percent higher than national rate
- b) lack of employment opportunity has contributed substantially to serious social and economic problems, and
- c) nonresident workers are a peculiar source of unemployment of residents

38.45.090

States that the commissioner of natural resources shall incorporate into each contract provisions requiring compliance with resident preference regulations.

38.45.100

Requires employees to comply with reporting requirements established by commissioner of labor. All specific employee data is to be kept confidential.

38.45.110

Provides for hearings by the Department of Labor to determine if an employer has complied with this chapter. A request for a hearing may be brought by an employee who has been rejected or terminated and a person not entitled to the

preference has been hired. The commissioner shall review the request and may hold a hearing. If the commissioner of labor finds willful intent on the part of the employer, the commissioner may certify the finding to the Department of Natural Resources.

38.45.120 Provides penalties for the employer that has willfully rejected or terminated an eligible qualified employee. If found in violation of this chapter, the employer may be required to pay the amount of lost wages to the employee and any actual expenses incurred as a result of the wrongful action by the employer. Either party may appeal to the Superior Court.

If the Department of Natural Resources finds after its investigation that there was willful noncompliance, the Department may impose:

- a) an increase in rent not to exceed \$100,000
- b) removal from eligibility for state contracts for a period not to exceed three years
- c) a noncompliance payment not to exceed \$200,000

38.45.130 Provides for penalties for any person who makes false statements regarding their eligibility for a preference.

38.45.200 States that this chapter is applicable to all natural resource projects on state lands

38.45.250 Provides definitions for "available," "employer," "natural resource project on state land," "qualified resident," "resident, and "state land."

Section 2 States that act applies to all contracts after effective date

Section 3 Provides for immediate effective date.

CSSSHB 367 (L&C)

SUMMARY OF LEGISLATION

CSSSHB 367 (L&C) would establish an employment preference for Alaska residents under certain conditions. Because a blanket policy requiring Alaska resident hire has been held unconstitutional, it was necessary to target a preference to specific projects and specific employees. HB 367 is directed at establishing an employment preference on natural resource projects on state land with the rationale that the state is a participant in the contract and can require that certain conditions be met in the lease of state natural resources.

The employment preference extends only to specific areas as designated by the commissioner of labor. These areas can be: census areas, of which there are 23 in Alaska; economic regions, of which there are six in Alaska; or the state as a whole. There are two types of employment preference areas. One is an underemployed area, and the second is an economically distressed area. The commissioner of labor must be able to substantiate the designation of these areas for an employment preference through extensive data collection and analysis.

An employment preference can be granted by the commissioner of labor only to specific employees who are unemployed, registered to find work, underemployed or have completed job training programs but are not using that skill.

The determination of an underemployed area would provide that an employment preference be given to specific Alaska residents as identified above. The commissioner of labor shall determine the amount of work that must be performed by preferred employees only after investigation and study.

In a determination of an economically distressed area, the employment preference would be granted to at least 50 percent of the qualified residents of that area.

The Department of Natural Resources shall include in all its contracts for oil and gas, leasable minerals or timber resources language to carry out the requirement of this chapter.

HB 367 also requires reporting by employers, but all specific employee data must be kept confidential.

If a person not entitled to preference is hired in a position for which an eligible applicant was rejected, the rejected applicant may request a hearing before the commissioner of

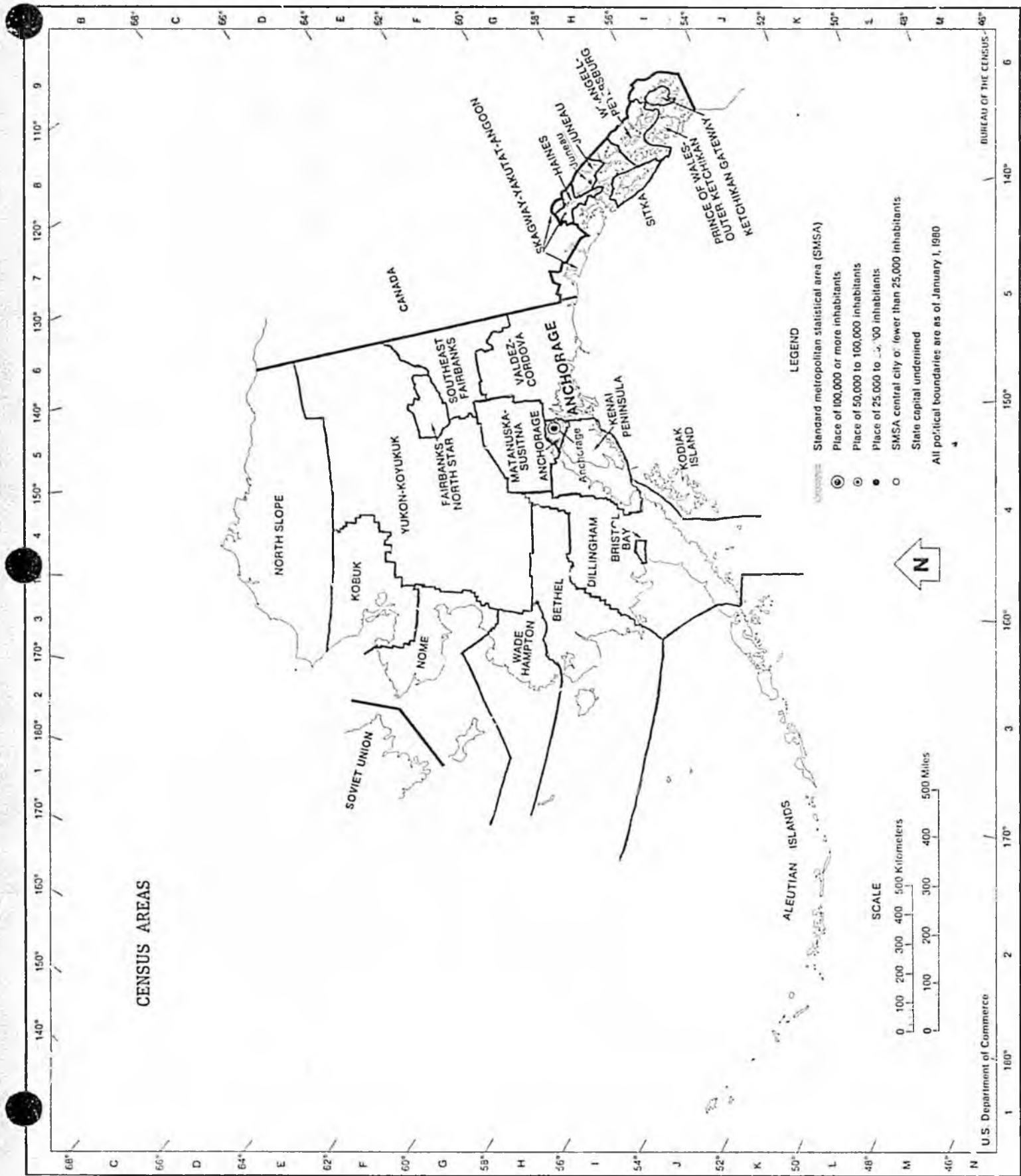
labor. The commissioner may hold a hearing. If the Department of Labor finds willful intent not to comply on the part of the employer, the department may require the employer to reimburse the employee for lost wages. Either party may appeal to the Superior Court.

If willful noncompliance is found by the Department of Labor, then the Department of Labor shall notify the Department of Natural Resources. The Department of Natural Resources may hold hearings and conduct its own investigation. If the Department of Natural Resources finds willful noncompliance, it may impose any of the following penalties: 1) increase the rent or other compensation to a maximum of \$100,000; 2) remove the eligibility of the employer to state contracts for a period not to exceed three years; or 3) require a noncompliance payment not to exceed \$200,000. Item number three is designed to apply to subcontractors or affiliates.

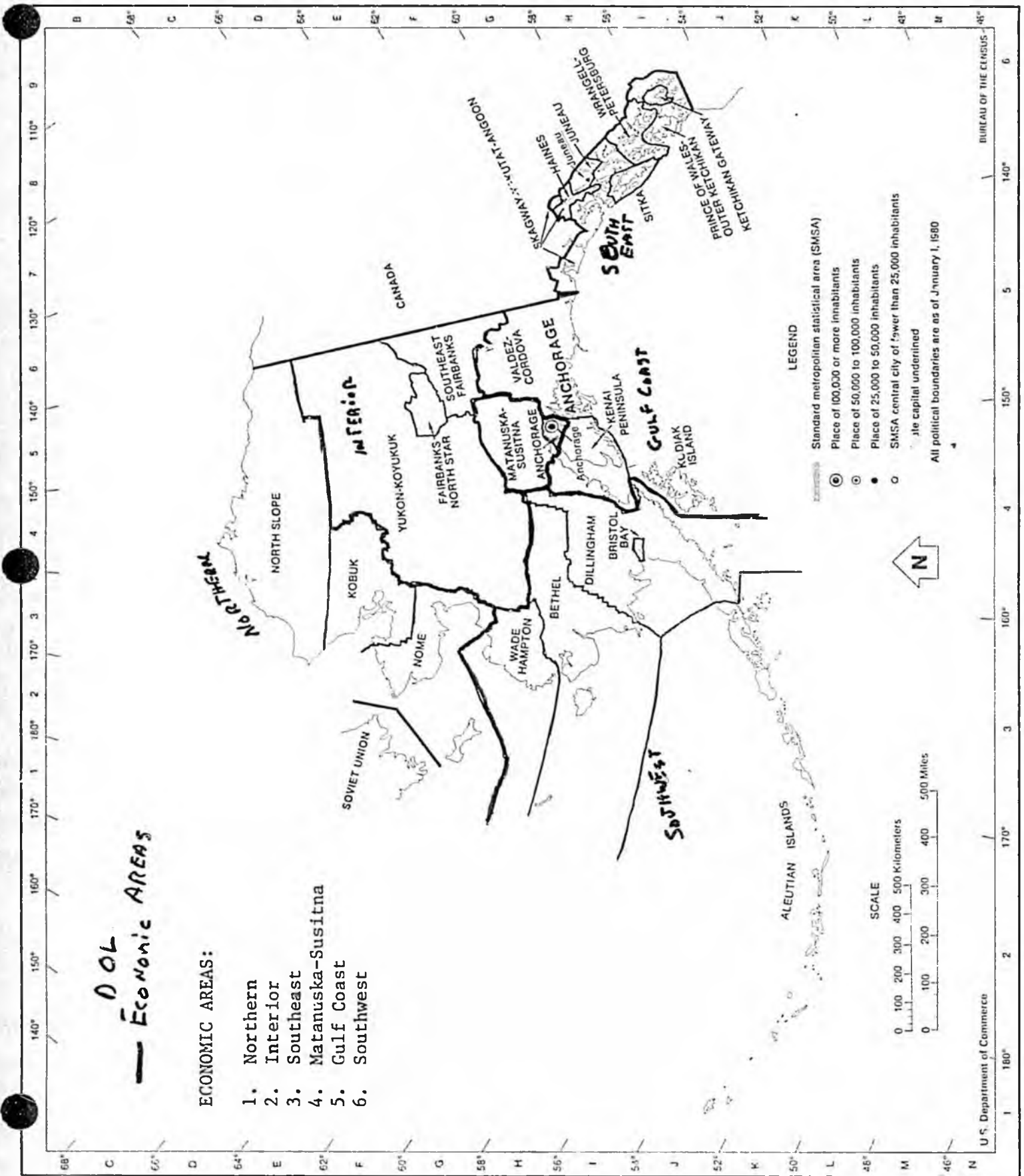
There also are penalties for false statements made by any person claiming an employment preference.

The original version of HB 367 had a much broader requirement for resident hire but probably would have run into constitutional problems. CSSSHB 367 (L&C) is much more focused regarding who is eligible for the employment preference, and the preference is restricted to specific areas of the state.

Standard Metropolitan Statistical Area, Boroughs, Census Areas, and Selected Places



Standard Metropolitan Statistical Area, Boroughs, Census Areas, and Selected Places



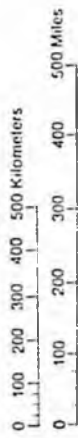
DOL
— Economic Areas

ECONOMIC AREAS:

1. Northern
2. Interior
3. Southeast
4. Matanuska-Susitna
5. Gulf Coast
6. Southwest

LEGEND

- Standard metropolitan statistical area (SMSA)
 - Place of 100,000 or more inhabitants
 - Place of 50,000 to 100,000 inhabitants
 - Place of 25,000 to 50,000 inhabitants
 - SMSA central city of fewer than 25,000 inhabitants
 - State capital
 - undetermined
- All political boundaries are as of January 1, 1980



U.S. Department of Commerce

BUREAU OF THE CENSUS

CSSSHB 367: Amendments to Penalty Sections
Submitted to House Judiciary Committee
May 2, 1986
by Representative Marco A. Pignalberi (sponsor)

Delete Page 7, lines 17 - 29 and Page 8, lines 1 - 3:

Sec. 38.45.110. HEARINGS which provides for hearings by the Department of Labor to determine if an employer has complied with this chapter. A request for a hearing may be brought by an employee if the employee has been rejected or terminated and a person not entitled to the preference has been hired. The commissioner shall review the request and may hold a hearing. If the commissioner of labor finds willful intent on the part of the employer, the commissioner may certify the finding to the Department of Natural Resources.

Delete Page 8, lines 4 - 29 and Page 9, lines 1 - 9:

Sec. 38.45.120. PENALTIES FOR EMPLOYERS which provides penalties for the employer that has willfully rejected or terminated an eligible qualified employee. If found in violation of this chapter, the employer may be required to pay the amount of lost wages to the employee and any actual expenses incurred as a result of the wrongful action by the employer. Either party may appeal to the Superior Court.

If the Department of Natural Resources finds after its investigation that there was willful noncompliance, the Department may impose:

- a) an increase in rent not to exceed \$100,000
- b) removal from eligibility for state contracts for a period not to exceed three years
- c) a noncompliance payment not to exceed \$200,000.

Delete Page 9, lines 10 - 23:

Section 38.45.130. CRIMINAL PENALTIES which provides for penalties for any person who makes false statements regarding their eligibility for a preference.

Delete Page 9, lines 24 - 29 and Page 10, lines 1 - 13:

Section 38.45.140. CIVIL PENALTIES which provides for civil penalties for false statements or intent to mislead a public servant in the performance of a duty.

Replacement Language

Amend Section 38.45.110 to read as follows:

Sec. 38.45.110. CIVIL PENALTY. (a) the Department of labor may conduct investigations and hearings to determine compliance with this chapter. After a hearing, if the commissioner of labor finds that an employer has willfully failed to comply with this chapter, the commissioner may impose a civil penalty in the amount of

(1) the lesser of \$5,000 or five percent of the compensation to the state under the project, lease, or agreement for the first rejection of a qualified eligible applicant or other violation of this chapter;

(2) the lesser of \$10,000 or 10 percent of the compensation to the state under the project, lease, or agreement for the second and each subsequent rejection or other violation of this chapter.

(b) In addition to the imposition of other penalties under this section, if the Department of Labor finds that an employer has willfully rejected a qualified eligible applicant or terminated a qualified eligible employee in violation of this chapter, the department may require the employer to pay the person the amount of wages the person lost and may require additional amounts to reimburse the person for actual expenses incurred as a result of the wrongful action.

(c) The commissioner may impose the penalties under this section on any employer only if the employer itself has failed to comply with this chapter, later amendments of this chapter, or regulations adopted under this chapter, or if the employer has failed to incorporate into its contracts the provision required under AS 38.45.100(b).

(d) The Department of Labor, in addition to the imposition of penalties under this section, may seek injunctive relief against a person who is not in compliance with this chapter and to enforce penalties imposed under this section.

Amend Section 38.45.120 to read as follows:

Sec. 38.45.120. PENALTIES FOR APPLICANTS AND EMPLOYERS. (a) A person who makes a false sworn statement in connection with a certification of eligibility for an employment preference under this chapter is subject to criminal prosecution for perjury as provided in AS 11.56.200.

(b) A person who makes an unsworn falsification, with the intent to mislead a public servant in the performance of a duty, in connection with certification of eligibility for an employment preference under this chapter, is subject to criminal prosecution as provided in AS 11.56.210.

(c) In addition to criminal penalties imposed by state law, if a person is convicted of a crime in connection with a false statement made in a certification required under AS 38.45.060, and the conviction is not reversed, that person shall forfeit all future rights to eligibility for an employment preference under this chapter.

Replacement Language Sectional Analysis

Sec. 38.45.110 CIVIL PENALTY. Provides for hearings by the Department of Labor to determine if an employer has complied with this chapter, and penalties for violations. Hearings will be in accord with Administrative Procedure Act. Penalties may include: payment to employee for wages lost; a fine of \$5,000 or 5 percent of contract price, whichever is less, for a first violation; or a fine of \$10,000 or 10 percent of contract price, whichever is less, for a second or subsequent violation of this chapter.

Sec. 38.45.120 PENALTIES FOR APPLICANTS AND EMPLOYERS. Provides for penalties for any person who makes false statements regarding their eligibility for a preference.

Proposed Amendment From Attorney General's Office

Page 3, Beginning on line 22, Sec. 38.45.035 is amended to read:

Sec. 38.45.035. EMPLOYEE QUALIFICATIONS. (a) An employer shall determine and judge the work qualifications of applicants for employment.

(b) Nothing in this chapter shall be interpreted to limit an employee's ability to make bona fide transfers of employees from one project or other business activity to another.

Collateral references. — 60 Am. Jur. 2d, Perjury, § 1 et seq.
70 C.J.S., Perjury, § 1 et seq.
False statement made under fear or compulsion as perjury, 4 ALR 1319.
Offense of perjury as affected by questions relating to jurisdiction of court before which testimony was given, 82 ALR 1127.
Oaths taken in pursuance of administrative requirement as predicate for criminal offense of perjury, 108 ALR 1240.
Contempt, procuring perjury as, 29 ALR2d 1157.
Imputation of perjury or false swearing as actionable per se, 38 ALR2d 161.
Materiality of testimony assigned as perjury question for court or jury, 62 ALR2d 117.
Statement of belief or opinion as perjury, 60 ALR2d 791.

Perjury or false swearing as contempt, 89 ALR2d 125A.
Public relief or welfare payments, perjury in connection with application for or receipt of, 92 ALR2d 447.
Dismissal of action because of party's perjury or suppression of evidence, 11 ALR3d 1153.
Actionability of conspiracy to give or to procure false testimony or other evidence, 31 ALR3d 1423.
Offense of perjury as affected by lack of jurisdiction by court or government body before which false testimony was given, 36 ALR3d 1038.
Perjury or willfully false testimony of expert witness as basis for new trial on ground of newly discovered evidence, 38 ALR3d 812.

Cited in proposed Sec. 38.45.120 (a)

* **Sec. 11.56.200. Perjury.** (a) A person commits the crime of perjury if the person makes a false sworn statement which the person does not believe to be true.

(b) In a prosecution under this section, it is not a defense that

(1) the statement was inadmissible under the rules of evidence; or
(2) the oath or affirmation was taken or administered in an irregular manner.

(c) Perjury is a class B felony. (§ 6 ch 166 SLA 1978)

Cross references. — For falsifications of affidavits required under AS 16.05.407 and 16.05.408 as perjury, see AS 16.05.407(a) and 16.05.408.

NOTES TO DECISIONS

Editor's notes. — Most of the cases cited in the notes below were decided under former AS 11.30.010.

Common law. — At common law in order to constitute perjury the false testimony must relate to a material point tending to prove a fact bearing on the issues before a court. The common law was modified by former AS 11.30.010. *Beckley v. State*, Sup. Ct. Op. No. 490 (File No. 887), 443 P.2d 51 (1968).

The common-law crime of perjury which requires materiality, was modified in Alaska by subsection (a) of former AS 11.30.010. *Nelson v. State*, Sup. Ct. Op. No. 1237 (File No. 2459), 516 P.2d 592 (1976).

Scope of common-law perjury enlarged. — See *Beckley v. State*, Sup. Ct. Op. No. 490 (File No. 887), 443 P.2d 51 (1968); *Nelson v. State*, Sup. Ct. Op. No. 1237 (File No. 2459), 516 P.2d 592 (1976).

When crime complete. — The crime under former AS 11.30.010 was complete if one willfully swore falsely in regard to any matter respecting which an oath was authorized or required. *Beckley v. State*, Sup. Ct. Op. No. 490 (File No. 887), 443 P.2d 51 (1968); *Nelson v. State*, Sup. Ct. Op. No. 1237 (File No. 2459), 516 P.2d 592 (1976).

Materiality is unnecessary. — Materiality is not mentioned in the Alaska perjury statute; therefore it is unnecessary, in

order to prove the crime of perjury, to establish that the matter concerning which willfully false testimony under oath was given was material to an issue before the court. *Beckley v. State*, Sup. Ct. Op. No. 490 (File No. 887), 443 P.2d 51 (1968); *Nelson v. State*, Sup. Ct. Op. No. 1237 (File No. 2459), 516 P.2d 592 (1976).

Admissibility of illegally seized evidence. — Under the exception to the exclusionary rule for illegally seized evidence in criminal prosecutions in *Evid. R. 412(2)*, illegally seized evidence may be used in perjury prosecutions, unless the police misconduct amounts to a flagrant or egregious invasion of personal rights. *Worham v. State*, Sup. Ct. Op. No. 2697 (File No. 5459), 657 P.2d 856 (1983).

Cited in proposed Sec. 38.45.120 (b)

* **Sec. 11.56.210. Unsworn falsification.** (a) A person commits the crime of unsworn falsification if, with the intent to mislead a public servant in the performance of a duty, the person submits a false written or recorded statement which the person does not believe to be true

(1) in an application for a benefit; or

(2) on a form bearing notice, authorized by law, that false statements made in it are punishable.

(b) Unsworn falsification is a class A misdemeanor. (§ 6 ch 165 SLA 1978)

Sec. 11.56.220. Proof of guilt. In a prosecution for perjury or unsworn falsification it is not necessary that proof be made by a particular number of witnesses or by documentary or other type of evidence. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

Editor's notes. — The case cited in the notes below was decided under former AS 11.30.010.

Required proof. — To be guilty of perjury, it was necessary under former law to prove that a person under oath willfully and falsely swore. *Nelson v. State*, Sup. Ct. Op. No. 1237 (File No. 2459), 516 P.2d 592 (1976).

One could not be convicted of perjury on the uncorroborated testimony of one witness under former law. *Nelson v. State*, Sup. Ct. Op. No. 1237 (File No. 2459), 516 P.2d 592 (1976).

Testimony of perjury had to be corroborated by other evidence, either direct or circumstantial. *Nelson v. State*,

Sup. Ct. Op. No. 1237 (File No. 2459), 516 P.2d 592 (1976).

The purpose of such a rule was to prevent ill-founded retaliatory attacks by perjury prosecution upon a witness based on no more than the contrary oath of another. *Nelson v. State*, Sup. Ct. Op. No. 1237 (File No. 2459), 516 P.2d 592 (1976).

What was corroborative evidence. — In order to be corroborative, evidence had to induce a rational belief that what the witness said was true. *Nelson v. State*, Sup. Ct. Op. No. 1237 (File No. 2459), 516 P.2d 592 (1976).

Sufficiency of evidence. — See *Nelson v. State*, Sup. Ct. Op. No. 1237 (File No. 2459), 516 P.2d 592 (1976).



Official Business

Alaska State Legislature

House

Pouch V
State Capitol
Juneau, Alaska 99811

April 14, 1986

Ron Lorensen,
Deputy Attorney General
P.O. Box K
Juneau, Alaska 99811

Dear Ron,

Are you of the opinion that provisions of SSHB 367 would inhibit a company like Standard Production Company of Alaska from transferring employees from outside to jobs in Alaska? The question raised in recent House Labor & Commerce Committee discussion is based upon the fear that incoming employees would have to be laid off for 30 days in Alaska prior to achieving residency status as defined by the bill.

If this may be the case, I would consider it a defect in the legislation and would appreciate a suggested remedy.

Thank you for your prompt consideration of this matter.

Yours truly,

Marco A. Pignalberi
MAP: drb

cc: The Honorable Mike Navarre, Chair
House Labor & Commerce Committee

Representative Drue Pearce
Representative Alyce Hanley
Representative Virginia Collins

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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

April 21, 1986

The Honorable Marco Pignalberi
Alaska State Legislature
P. O. Box V
Juneau, AK 99811

Re: SSHB 367, relating to resident
hire on natural resource
projects

Dear Representative Pignalberi:

This responds to your letter of April 14, 1986 inquiring whether the provisions of SSHB 367 could be interpreted to inhibit an employer from transferring employees from outside Alaska to jobs in Alaska.

At first blush my reaction was that this would not present a problem -- particularly if SSHB 367 is amended slightly in the manner used in SB 271 to clarify that the preference applies at the time of hire for an unfilled position (see Senate Journal, April 11, 1986, p. 2316, Amend. No. 2). However, on further reflection, it does seem possible that a very aggressive enforcement posture might lead to the interpretation you have suggested.

In order to avoid the potential for this problem, I would suggest an amendment to the bill along the following lines:

at page 3, lines 22-24, delete the existing provision and insert the following:

Sec. 38.45.035. EMPLOYER PREROGATIVES. (a) An employer shall determine and judge the work qualifications of applicants for employment.

(b) Nothing in this chapter shall be interpreted to limit an employer's ability to make bona fide transfers of employees from one project or other business activity to another.

I hope this is responsive to your question.

Sincerely yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By:



Ronald W. Lorensen
Deputy Attorney General

RWL/me

cc: Senator Jan Faiks
Sponsor, SB 367

Senator Joe Josephson
Sponsor, SB 271

Representative Red Boucher
Sponsor, HB 466

Bob Landau, Deputy Commissioner
Department of Labor

Art Peterson, Assistant Attorney General
Department of Law

Offered: 4/14/86
Referred: Judiciary and
Finance

Original sponsors: Pignalberi, Cotten,
Davis, et al

MARK-UP ILLUSTRATING AMENDMENT PLACEMENT

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 367 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring resident hire on certain natural
7 resource projects on state land; and providing for an
8 effective date."

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

10 * Section 1. AS 38 is amended by adding a new chapter to read:

11 CHAPTER 45. RESIDENT EMPLOYMENT PREFERENCE UNDER STATE LEASES.

12 Sec. 38.45.010. STATE POLICY. It is the policy of the state to
13 develop its natural resources to provide the maximum benefit to the
14 people of the state as required by the Constitution of the State of
15 Alaska. These benefits include employment opportunities in natural
16 resource development projects for residents qualified for the employ-
17 ment, as well as receipt of state revenue from the development.

18 Sec. 38.45.020. LEGISLATIVE FINDINGS. The legislature finds:

19 (1) the findings made in AS 36.10.005 continue to accurately
20 describe the social, economic, and employment situation in the
21 state;

22 (2) chronic unemployment can breed severe social problems
23 including alcoholism and domestic violence;

24 (3) the findings of the Department of Labor of the State of
25 Alaska in its report entitled "Nonresidents Working in Alaska; A
26 Special Study to Measure the Economic Impact of Nonresidents on
27 Alaska's Economy During Calendar Year 1984" support the need for a
28 resident hiring preference;

29 (4) there is a need for timely, accurate information on the

1 number of nonresident and resident workers in industries in the state;

2 (5) the state has a continuing interest in determining
3 whether indirect benefits, including employment opportunities, from
4 state expenditures, natural resource projects, and agreements concern-
5 ing the state's natural resources accrue to residents of the state or
6 to nonresidents;

7 (6) a major factor in the unemployment problem is the
8 failure of some employers engaged in the exploration, development, and
9 production of natural resources on state land, and under leases or
10 other agreements granted or permitted by the state, to employ state
11 residents;

12 (7) whereas at an earlier stage of the state's history it
13 was asserted that high unemployment in the state was due to cultural
14 and geographical migration barriers, the state now has many residents
15 who are qualified, trained, and available for employment in the explo-
16 ration, development, production, and extraction of natural resources
17 on state land;

18 (8) the state has made significant investments in training
19 programs and vocational education to help furnish industry with qual-
20 ified residents able to work in the development, exploration, produc-
21 tion, and extraction of natural resource products on state land;

22 (9) the state's investment in these training and education
23 programs will be of little avail unless state residents receive em-
24 ployment opportunities in natural resource projects on state land;

25 (10) employment of nonresidents displaces qualified resi-
26 dents from work in the development, exploration, production, and
27 extraction of natural resource products on state land and from work in
28 service occupations on state land that directly support the develop-
29 ment, exploration, and production activities; therefore, the number of

*
INSERT B

(b) Nothing in this chapter shall be interpreted to limit an employer's ability to make bona fide transfers of employees from one project or other business activity to another.

(LANGUAGE PROPOSED BY ATTORNEY GENERAL'S OFFICE)

1 nonresidents hired for work on state land in the development, explor-
2 ation, production, and extraction of state resources is a peculiar
3 source of the unemployment problem now besetting the state;

4 (11) the number of state residents who are unable to find
5 work is considerably higher than is reflected by unemployment rates
6 based on nationally accepted measures;

7 (12) many rural state residents who wish to work do not seek
8 employment as frequently as necessary to meet federal definitions of
9 unemployment because of continuing lack of employment opportunities in
10 rural areas of the state.

11 Sec. 38.45.030. UNAVAILABILITY OF PREFERRED WORKERS. (a) An
12 employer subject to hiring requirements under this chapter may request
13 the Department of Labor to assist in locating qualified, eligible
14 employees. After receiving a request for assistance, the department
15 shall refer qualified, eligible, available residents to the employer
16 to fill the employer's hiring needs.

17 (b) If the department is unable to refer a sufficient number of
18 qualified, eligible, available residents able to perform the work, the
19 commissioner of labor may approve the hiring of residents who are not
20 eligible for preference and nonresidents for the balance of the re-
21 quest.

22 * Sec. 38.45.035. EMPLOYEE QUALIFICATIONS. (a) An employer shall
23 determine and judge the work qualifications of applicants for employ-
24 ment. (b) SEE INSERT B ABOVE

25 Sec. 38.45.040. REGULATIONS. The commissioner of labor shall
26 adopt regulations in accordance with AS 44.62 (Administrative Proce-
27 dure Act) to implement this chapter and encourage and require the
28 hiring of residents to the maximum extent permitted by law.

29 Sec. 38.45.050. RESIDENT HIRE REPORT. The attorney general and

1 the commissioner of labor shall report annually to the legislature and
2 the governor on the status of employment in the state, the effect of
3 nonresident employment on the employment of residents in the state,
4 and methods to increase resident hire. The report shall be submitted
5 by January 31 of each year.

6 Sec. 38.45.060. ELIGIBILITY FOR PREFERENCE. (a) A person is
7 eligible for an employment preference under this chapter if the person
8 certifies eligibility as required by the Department of Labor, is a
9 resident, and

10 (1) is receiving unemployment benefits under AS 23.20 or
11 would be eligible to receive benefits but has exhausted them;

12 (2) is not working and has registered to find work with a
13 public or private employment agency or a local hiring hall;

14 (3) is underemployed or marginally employed as defined by
15 the department; or

16 (4) has completed a job-training program approved by the
17 department and is either not employed or is engaged in employment that
18 does not use the skills acquired in the job-training program.

19 (b) An employer subject to a resident hiring requirement under
20 this chapter shall certify that persons employed as residents under
21 the preference are eligible for the preference.

22 Sec. 38.45.070. DETERMINATION OF UNDEREMPLOYED AREA. (a)
23 Immediately following a determination by the commissioner of labor
24 that a census area, economic region, or the state as a whole is an
25 underemployed area and for the next two fiscal years after the deter-
26 mination, qualified residents who are eligible under AS 38.45.060
27 shall be given preference for work on each natural resource project on
28 state land that is wholly or partially sited within the area.

29 (b) The commissioner of labor shall determine the amount of work

1 that must be performed under this chapter by eligible qualified resi-
2 dents. In making this determination, the commissioner shall consider
3 the nature of the work, the classification of workers, availability of
4 eligible residents, and the willingness of eligible residents to
5 perform the work.

6 (c) The commissioner shall determine what a census area, econo-
7 mic region, or the state as a whole is an underemployed area if the
8 commissioner finds that

9 (1) the rate of unemployment within the area is substan-
10 tially higher than the national rate of unemployment;

11 (2) a substantial number of residents in the area have
12 experience or training in occupations that would be employed on a
13 natural resource project on state land;

14 (3) the lack of employment opportunities in the area has
15 contributed to serious social or economic problems in the area; and

16 (4) employment of workers who are not residents is a pecu-
17 liar source of the unemployment of residents of the area.

18 (d) The commissioner shall define the boundaries of a census
19 area or economic region within which a preference applies. In choos-
20 ing whether to apply a preference to a census area, economic region,
21 or the state as a whole, the commissioner shall apply the preference
22 to the smallest unit that will adequately address the problems identi-
23 fied by the findings.

24 Sec. 38.45.080. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-
25 TRESSED AREAS. (a) Immediately following a determination by the
26 commissioner that a census area or economic region of the state is an
27 economically distressed area, and for the next two fiscal years after
28 the determination, qualified residents of the area who are eligible
29 under AS 38.45.060 shall be given preference for at least 50 percent

1 of employment on each natural resource project on state land that is
2 wholly or partially sited within the economically distressed area.

3 (b) The commissioner shall determine that an area is an econom-
4 ically distressed area if the commissioner finds that

5 (1) the per capita income of residents is less than 90
6 percent of the per capita income of the United States as a whole or
7 the unemployment rate in the area exceeds the national rate of unem-
8 ployment by at least five percentage points;

9 (2) the lack of employment opportunities in the area has
10 substantially contributed to serious social or economic problems in
11 the area; and

12 (3) employment of workers who are not residents is a pecu-
13 liar source of unemployment of residents of the area.

14 (c) If the governor has declared an area to be an area affected
15 by an economic disaster under AS 44.33.285, then the preference for
16 residents of the area established under AS 44.33.285 - 44.33.310
17 supercedes the preference under this section.

18 (d) The commissioner shall define the boundaries of a census
19 area or economic region in which a preference applies. In choosing
20 whether to apply a preference to a census area or economic region,
21 the commissioner shall apply the preference to the smallest unit that
22 will adequately address the problems identified by the findings.

23 Sec. 38.45.090. INCORPORATION INTO CONTRACTS. In order to
24 create, protect, and preserve the right of eligible qualified resi-
25 dents to employment in natural resource projects on state land, the
26 commissioner of natural resources shall incorporate into each con-
27 tract, lease, unitization agreement, or renegotiation of a contract,
28 lease or unitization agreement, provisions requiring compliance with
29 this chapter, regulations adopted under this chapter, and all later

1 amendments to this chapter or the regulations, and authorizing pen-
2 alties under AS 38.45.120 for failure to comply. The commissioner
3 shall incorporate into each contract, lease, unitization agreement, or
4 renegotiation a requirement that the lessee include in each contract
5 under the lease or agreement with contractors or subcontractors who
6 will be operating on state land a provision requiring compliance with
7 this chapter, later amendments of this chapter, regulations adopted
8 under this chapter, and authorizing penalties under AS 38.45.120.

9 Sec. 38.45.100. REPORTING PROVISIONS. An employer obligated to
10 meet resident hiring requirements under this chapter shall comply with
11 the reporting provisions that the commissioner of labor determines are
12 reasonably necessary to carry out this chapter. Except for statis-
13 tical data, information concerning specific employees is confidential
14 and may not be released to the public by the department. However,
15 confidential employee information may be shared between departments
16 for purposes of this chapter.

17 Sec. 38.45.110. HEARINGS. (a) If a person not entitled to a
18 preference was hired in a position for which an eligible applicant was
19 rejected or to a position from which an eligible employee was termi-
20 nated, the eligible applicant or eligible former employee may, within
21 30 days after the rejection or termination, request a hearing before
22 the Department of Labor to determine whether the employer violated
23 this chapter in denying the application or terminating the employment.
24 The Department of Labor shall review the request and may hold a hear-
25 ing on the question.

26 (b) The Department of Labor may conduct investigations and
27 hearings to determine compliance with this chapter. If the commis-
28 sioner of labor finds that an employer has wilfully failed to comply
29 with this chapter, the commissioner may certify the finding to the

*
**DELETE
PER
AMENDMENT**

1 Department of Natural Resources.

2 (c) Proceedings under this section are exempt from AS 44.62
3 (Administrative Procedure Act).

4 Sec. 38.45.120. PENALTIES FOR EMPLOYERS. (a) If the Department
5 of Labor finds that an employer has rejected a qualified eligible
6 applicant or terminated a qualified eligible employee in violation of
7 this chapter, the department may require the employer to pay the
8 person the amount of wages the person lost and may require additional
9 amounts to reimburse the person for actual expenses incurred as a
10 result of the wrongful action. Either party may appeal the depart-
11 ment's decision under this section to the superior court. The court
12 may hear the appeal de novo.

13 (b) The Department of Natural Resources, upon certification of
14 noncompliance by the Department of Labor under AS 38.45.110, may
15 investigate and conduct hearings. If it finds wilful noncompliance,
16 the department may impose on the employer one or more of the following
17 penalties:

18 (1) increase the rent or other forms of compensation re-
19 ceived by the state under the project lease or agreement; the increase
20 may not exceed \$100,000;

21 (2) remove, for an appropriate period of time not to exceed
22 three years, the eligibility of the employer to contract with the
23 state or any of its political subdivisions; or

24 (3) require a noncompliance payment in liquidated damages
25 to the state in an amount equal to seven and one-half times the number
26 of hours required but not worked by eligible qualified residents
27 multiplied by the going wage or salary rate for the particular job or
28 activity involved; the payment may not exceed \$200,000.

29 (c) The commissioner may impose the penalties under this section

1 on an employer only if the employer itself has failed to comply with
2 this chapter or incorporate into the contract, lease, or unitization
3 agreement with the violator a provision requiring compliance with this
4 chapter.

5 (d) The Department of Labor or the Department of Natural Resources,
6 in addition to the imposition of penalties under this section,
7 may seek injunctive relief against a person who is not in compliance
8 with this chapter. The Department of Natural Resources may seek
9 injunctive relief to enforce penalties imposed under this section.

10 Sec. 38.45.130. CRIMINAL PENALTIES. (a) A person who makes a
11 false sworn statement in connection with a certification of eligibil-
12 ity for an employment preference under this chapter is subject to
13 criminal prosecution for perjury as provided in AS 11.56.200.

14 (b) A person who makes an unsworn falsification, with the intent
15 to mislead a public servant in the performance of a duty, in connec-
16 tion with a certification of eligibility for an employment preference
17 under this chapter, is subject to criminal prosecution as provided in
18 AS 11.56.210.

19 (c) In addition to criminal penalties imposed by state law, if a
20 person is convicted of a crime in connection with a false statement
21 made in a certification required under AS 38.45.060, and the convic-
22 tion is not reversed, that person shall forfeit all future rights to
23 eligibility for an employment preference under this chapter.

24 Sec. 38.45.140. CIVIL PENALTIES. (a) In addition to any crimi-
25 nal penalties imposed and to penalties imposed under AS 38.45.120,
26 after a hearing the department may impose a civil penalty on a person
27 who, in connection with certification of eligibility for an employment
28 preference under this chapter,

29 (1) made a false sworn statement; or

*
1 (2) made an unsworn falsification with intent to mislead a
2 public servant in the performance of a duty.

3 (b) The amount of the civil penalty under (a) of this section
4 for a person who falsely certifies that the person is eligible for an
5 employment preference under this chapter is not more than \$400 for
6 each false certification. The person also forfeits all future rights
7 to eligibility for an employment preference under this chapter.

8 (c) The amount of the civil penalty under (a) of this section
9 for an employer who falsely certifies that employees are residents
10 eligible for a preference under this chapter is not more than \$2,000
11 for each of the first five false certifications. The penalty for the
12 sixth false certification made by an employer and for each false
13 certification thereafter is at least \$2,000 and not more than \$4,000.

14 Sec. 38.45.200. APPLICABILITY OF CHAPTER. This chapter applies
15 to all natural resource projects on state land. The preference app-
16 lies only to employment that is performed directly for an employer.

17 Sec. 38.45.250. DEFINITIONS. In this chapter

18 (1) "available" means physically present at the place of
19 hire at the time requested by the employer;

20 (2) "employer" means a person other than the state who is a
21 party to a contract, lease, or unitization agreement for a natural
22 resource project on state land and the person's affiliate, principal,
23 subsidiary, contractor, or subcontractor if the activity of the affil-
24 iate, principal, subsidiary, contractor, or subcontractor is performed
25 on state land;

26 (3) "natural resource project on state land" means a pro-
27 ject authorized by a contract, lease, unitization agreement, or a
28 renegotiation of a contract, lease, or unitization agreement for
29 exploration, development, extraction or production of oil and gas,

1 leasable mineral, or timber resources if the state is a party to the
2 contract, lease or unitization agreement and the project is performed
3 in whole or in part on state land;

4 (4) "qualified resident" means a resident who possesses the
5 requisite education, training, skills, or experience to perform the
6 work;

7 (5) "resident" means a person who establishes residency
8 under AS 01.10.055;

9 (6) "state land" means all land, including shore, tide, and
10 submerged land, belonging to or acquired by the state.

11 * Sec. 2. AS 38.45, enacted in sec. 1 of this Act, applies to a lease,
12 unitization agreement, or contract for the development of oil and gas,
13 leasable mineral, or timber resources entered into on or after the effec-
14 tive date of this Act and to a renegotiation of the lease, unitization
15 agreement, or contract. AS 38.45 applies to the renegotiation on or after
16 the effective date of this Act of a lease, unitization agreement, or con-
17 tract entered into before the effective date of this Act if the renegotia-
18 tion results in a major change in the duties of a party.

19 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
20 10.070(c).

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: 4/18/86

REQUEST

Bill/Resolution No.: CSSS 18367 (L&C)
 Title: "An Act requiring resident hire on certain natural resources projects.."
 Sponsor: Pignalberi, Cotten et. al.
 Requestor: House Judiciary
 Date of Request: 4/16/86

FISCAL DETAIL

Agency Affected: Labor
 BRU: Labor Standards and Safety
 Components: Wage and Hour

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES			115.6	231.4	231.4	231.4
TRAVEL			26.0	43.7	45.4	47.2
CONTRACTUAL SUPPLIES			6.0	12.5	13.0	13.5
EQUIPMENT			1.8	3.6	3.7	3.8
LAND & STRUCTURES			9.6	0	0	0
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	159.0	291.2	293.5	295.9

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND	0	0	159.0	291.2	293.5	295.9
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	159.0	291.2	293.5	295.9

POSITIONS :

FULL-TIME	0	0	6.0	6.0	6.0	6.0
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: Robert J. Bacolas Sr.
 Division: Labor Standards and Safety

Phone: 465-4870

Date: 4/18/86

Approved by Commissioner: Jim Robison
 Agency: Labor

Date: 4/18/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSSHB 367 (L&C)

Under the provisions of this bill, the department would be responsible for monitoring, investigating, and enforcing resident hire on natural resource projects. The majority of the investigative/enforcement activity would not begin until 1988 when the annual report on resident hire is published and the Commissioner designates those areas or regions of the state in which a hiring preference applies. The following resources would, therefore, be needed beginning in FY 88:

	2 Wage & Hour Investigator I's - 6 months (Anchorage)	2 Wage & Hour Technicians 6 months (Anchorage)	1 Wage & Hour Investigator I 6 months (Fairbanks)	1 Clerk Typist III 6 months (Anchorage)	<u>Total</u>
Personal Svcs	43.8	33.6	25.2	13.0	115.6
Travel	8.5	0	7.5	0	16.0
Contractual	2.0	2.0	1.0	1.0	6.0
Commodities	.5	.5	.3	.5	1.8
Equipment	3.2	3.2	1.6	1.6	9.6
	<u>58.0</u>	<u>39.3</u>	<u>35.6</u>	<u>16.1</u>	<u>149.0</u>

The positions would work 6 months in FY 88 (beginning January 1, 1988) and be full time from then on. Also, an additional \$10,000 in travel expense would be incurred by existing positions for travel to the North Slope.

Assumptions

1. The Commissioner will designate those areas or regions of the State where hiring preference applies by January 1, 1988.
2. Inflation on non-personal services items would be 4% per year.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 4/21/86

REQUEST

Bill/Resolution No. : CSSS HB367(L&C)
 Title : "An Act requiring resident hire on certain natural resources projects..."

Sponsor : Pignatelli, Cotten, et. al.
 Requestor : HOUSE Judiciary
 Date of Request : 4/16/86

FISCAL DETAIL

Agency Affected : Labor
 ERU : Administrative Services

Components : Special Services

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		133.6	133.6	133.6	133.5	133.6
TRAVEL		0	0	0	0	0
CONTRACTUAL		193.7	204.0	242.2	241.1	247.2
SUPPLIES		1.2	1.2	1.3	1.3	1.4
EQUIPMENT		4.0	.8	.9	.9	1.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	332.5	339.5	378.0	376.9	383.2

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND	0	332.5	339.6	378.0	376.9	383.2
FEDERAL FUNDS						
OTHER						
TOTAL	0	332.5	339.6	378.0	376.9	383.2

POSITIONS :

FULL-TIME		3	3	3	3	3
PART-TIME		1	1	1	1	1
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Judy G. Knight
 Judy G. Knight, Director
 Division : Administrative Services
 Phone : 465-2720
 Date : 4/18/86

Approved by Commissioner : Jim Robison
 Agency : Labor
 Date : 4/18/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION OF FISCAL NOTE ANALYSIS
Bill/Resolution No. CSSS HB367(L&C)

This legislation was carefully drafted to maximize its chances in any future court challenge. This resulted in a complex set of area designations and determinations of resident preferences that are based on objective statistics. To make the determinations and designations specified in this legislation will require this department to collect and analyze extensive occupational information by area resident status. Our assumptions are as follows:

1. An annual report designating underemployment areas would be completed by January 31 of each year beginning in 1987.
2. On-going collection of occupational titles would be required from employers, and extensive computer matching would be necessary to determine residency status.
3. The collection of occupational titles from firms will be phased in over a three year period. Industries identified as having the highest dollar payments to nonresidents in 1984 would be targeted first:

First Year construction, oil and gas mining, and food processing;

Second Year all first year industries plus business services, local government, miscellaneous services, eating and drinking places, air transportation, and state government; and

Third Year all industries.

4. In addition to the occupational information, reporting of the residency status by industry and area would be necessary.
5. Information to make the determinations of Sec. 38.45.070 (b) will be developed as follows:

Nature of the work The Standard Industrial Classification (SIC) coding will be used for all information related to the employers' type of business. This will hold down costs and permit aggregate comparisons.

Classification of workers Nationally accepted occupational classification coding will be used for all information related to individuals' occupations.

Availability of eligible residents Our analysis will consider registered applicants in Job Service, employment, job turnover, unemployment and training program completers by occupation.

Willingness of eligible residents to perform the work This will be done in two stages:

a) Estimates of eligible and available residents within each economic region will be evaluated relative to the projected employment for relevant occupations.

b) all occurrences where the Department is unable to assist an employer to place a qualified resident will be recorded as to the specific occupation and area. Subsequent cases will not require resident placement in that occupation and area until sufficient data exists to indicate that qualified residents are available.

6. Resident hire legislation requires comprehensive statistical support of the displacement of residents by nonresident workers, and the resulting social effects.
7. Extensive mainframe data processing costs will be required. No one computer file has all of the information necessary for the analysis required by this legislation. Records of several files, with as many as 2 million records (UI wage items), have to be matched together by Social Security Number (SSN), and information on occupational titles and Certified Payrolls entered and edited.

An additional field for the occupational title will be added to all UI wage item reports from employers. As detailed in item #3 reporting from industries will be phased in. Costs are estimated to be \$20,000 in FY 87, \$40,000 in FY 88, and \$62,000 in FY 89. Increases in FY 90 and FY 91 are anticipated due to inflation and a greater number of firms.

Programming costs include: modification of programs used last year (\$2,000); development of new applications in FY 87 (\$25,500); and system maintenance, and analytical extractions (\$2,000) in all years. Estimated total programming costs are \$29,500 for FY 87 (983 hours @ \$30 per hour including all benefits and overhead), dropping to \$4,500 (150 hours @ \$30 per hour) in FY 88, and experiencing small inflationary costs in later years.

Primary processing will be done on the DOL computer. Costs are allocated to projects based upon use, in conformance with federal and state accounting requirements. Total data processing operations costs are estimated at \$116,000 in FY 87. Primarily due to the phase in of additional industries' occupational titles costs will increase to \$131,000 in FY 88, \$146,000 in FY 89, \$149,000 in FY 90, and \$152,000 in FY 91.

Microcomputers will be used for analysis and editing when possible to minimize costs.

8. Printing costs for the annual report are estimated at \$4,500 the first year with inflationary increases in FY 90 and FY 91. This is based upon an assumption of 1,500 copies at \$3 each.

9. Long distance phone calls will be done on a daily basis to verify the accuracy of occupational titles. The greatest number of calls will occur in the first year that an industry is surveyed. After the first three years the costs would drop.

Additional calls will be necessary each year to address the annual report requirement to determine "methods to increase resident hire." High nonresident employment by occupation, industry, and/or area will be identified in our statistical work. Calls will be made to follow up on the reasons for the high nonresident employment and solutions to increase resident hiring will be sought.

10. As currently drafted the statistical and analytical requirements of Senate Bill 271 closely parallel that of House Bill 466, and its Senate complement 367. If both pieces of legislation are enacted our fiscal note for House Bill 466 would also cover all of our costs for Senate Bill 271.

Summary of
Nonpersonal Services by Year

	FY 87	FY 88	FY 89	FY 90	FY 91
Travel	0	0	0	0	0
Key Entry	20,000	40,000	52,000	64,000	66,000
DP Operations	116,000	131,000	146,000	149,000	152,000
DP Applications	29,500	4,500	4,700	4,900	5,100
Printing	4,500	4,500	4,500	4,700	5,000
Long Distance Phone Service	12,000	12,500	13,000	6,000	6,200
Equipment Lease	8,000	8,300	8,700	9,000	9,400
Equipment Maintenance	800	800	900	900	900
Training, shipping, & Misc.	2,900	2,400	2,400	2,600	2,600
Total Contractual	193,700	204,000	242,200	241,100	247,200
Supplies	1,200	1,200	1,300	1,300	1,400
Equipment (desk, chair, software)	4,000	800	900	900	1,000

Position Title Labor Economist II			No. of Positions	Range/Step 16B	Darg. Unit GGI	Gov.	Approv.	Disapp.
Time Status PPT.	Staff Months 3	RP Number	Location Juneau		Election District	Leg.		
Justification								
This part-time position will be necessary to help the Labor Economist III analyze and compile data for the annual resident hire report. This position will work for three months prior to the report deadline.								
Specific duties include:								
1) Conduct exploratory data analysis of economic information that illustrates the effect of the nonresident worker in the Alaska economy; show the degree of displacement of residents by nonresidents.								
2) Use a microcomputer to prepare graphs tables and narrative that result from the exploratory data analysis.								
Contractual services include miscellaneous phone, training and equipment lease cost.								
Type of Expenditure			Amount					
1			2			3		
Salary			8,412					
Benefits			4,965					
Premium Pay								
Other								
Total Personal Services						13,377		
Travel								
Contractual						900		
Commodities						100		
Equipment						0		
Other								
Total Cost						14,377		
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004			14,377		
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
For B&M Use Only								
Key Number _____								

**Request For
New Position**

Agency Labor
 BRU Administrative Services
 Component Special Services

Page 6 of 8
 Revised Date

FY 87

Position Title Statistical Clerk			No. of Positions 1	Range/ 10B	Barg. Unit GU	Gov. Leg.	Approv.	Disapp.
Time Status PFT	Staff Months 12.0	RP Number	Location Juneau	Election District 4				
Type of Expenditure			Justification					
			This position will work on the quality control of occupational titles which would be submitted by employers each quarter. Specifically, the duties would be:					
Amount			<ol style="list-style-type: none"> 1. Review detailed edit listings. 2. Update edit data files. 3. Call employers for clarification when necessary. 4. Correct occupational titles. 5. Prepare computer summaries of results. 					
1	2	3						
Salary	23,580							
Benefits	8,458							
Premium Pay								
Other								
Total Personal Services		32,038						
Travel		0						
Contractual		3,600						
Commodities		365						
Equipment		1,300						
Other								
Total Cost		37,303	Contractual costs for this position include phone, training, and other miscellaneous items.					
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004					
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
			37,303					
For B&M Use Only								
Key Number								

**Request For
New Position**

Agency Labor
 BRU Administrative Services
 Component Special Services

Page 8 of 8
 Revised Date

FY 87

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. HCS CSSB 367 (L&C)
 Title : "An Act relating to Alaskan
 resident employment preference..."
 Sponsor : Faiks, Josephson, Sturdevant, ...
 Requestor : House Labor & Commerce
 Date of Request : 4/14/86

FISCAL DETAIL

Agency Affected : Labor
 BRU : Administration Services
 Components : Special Services

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		133.6	133.6	133.6	133.6	133.6
TRAVEL		0	0	0	0	0
CONTRACTUAL		193.7	203.8	241.9	240.8	246.9
SUPPLIES		1.2	1.2	1.3	1.3	1.4
EQUIPMENT		4.0	.8	.9	.9	1.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	332.5	339.4	377.7	376.6	382.9

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND	0	332.5	339.4	377.7	376.6	382.9
FEDERAL FUNDS						
OTHER						
TOTAL	0	332.5	339.4	377.7	376.6	382.9

POSITIONS :

FULL-TIME		3	3	3	3	3
PART-TIME		1	1	1	1	1
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Judy G. Knight, Director Phone : 465-2720
 Division : Administrative Services Date : 4-23-86

Approved by Commissioner : Jim Robison Date : 4-23-86
 Agency : Labor

Distribution (by Agency preparing fiscal note) :
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

CONTINUATION OF FISCAL NOTE ANALYSIS
Bill/Resolution No. HCS CSSR 367(I&C)

This legislation was carefully drafted to maximize its chances in any future court challenge which resulted in a complex set of area designations and determinations of resident preferences that are based on objective statistics. To make the determinations and designations specified in this legislation will require this department to collect and analyze extensive occupational information by area resident status. Our assumptions are as follows:

1. An annual report designating underemployment areas would be completed by January 31 of each year beginning in 1987.
2. On-going collection of occupational titles would be required from employers, and extensive computer matching would be necessary to determine residency status.
3. The collection of occupational titles from firms will be phased in over a three year period. Industries identified as having the highest dollar payments to nonresidents in 1984 would be targeted first:

First Year - construction, oil and gas mining, and food processing;

Second Year - all first year industries plus business services, local government, miscellaneous services, eating and drinking places, air transportation, and state government and;

Third Year - all industries.

4. In addition to the occupational information, reporting of the residency status by industry and area would be necessary.
5. All minority and female demographic and economic information will be derived from the decennial census. If more frequent updates of this information are required additional questions would have to be added to the Permanent Fund Dividend application and resources increased.
6. Information to make the determinations of Sec. 36.10.150 (b) will be developed as follows:

Nature of the work - The Standard Industrial Classification (SIC) coding will be used for all information related to the employers' type of business. This will hold down costs and permit aggregate comparisons.

Classification of workers - Nationally accepted occupational classification coding will be used for all information related to individuals' occupations.

CONTINUATION OF FISCAL NOTE ANALYSIS
 FOR BILL/RESOLUTION NO. HCS CSB 367(L&C)

SUMMARY OF NONPERSONAL SERVICES COSTS

	FY 87	FY 88	FY 89	FY 90	FY 91
Travel	0	0	0	0	0
Key Entry	20,000.00	40,000.00	62,000.00	64,000.00	66,000.00
DP Operations	116,000.00	131,000.00	146,000.00	149,000.00	152,000.00
DP Applications	29,500.00	4,250.00	4,400.00	4,600.00	4,300.00
Printing	4,500.00	4,500.00	4,500.00	4,700.00	5,000.00
Long Distance Phone Service	12,000.00	12,500.00	13,000.00	6,000.00	6,200.00
Equipment Lease	8,000.00	8,300.00	8,700.00	9,000.00	9,400.00
Equipment Maintenance	800.00	800.00	900.00	900.00	930.00
Training, shipping, & Misc.	2,900.00	2,400.00	2,400.00	2,600.00	2,600.00
Total Contractual	193,700.00	203,750.00	241,900.00	240,800.00	246,900.00
Supplies	1,200.00	1,200.00	1,300.00	1,300.00	1,400.00
Equipment (desk, chair, sftwre)	4,000.00	800.00	900.00	900.00	1,000.00

A detailed description of costs and activities follows.

Availability of eligible residents - Our analysis will consider registered applicants in Job Service, employment, job turnover, unemployment and training program completers by occupation.

Willingness of eligible residents to perform the work - This will be done in two stages:

- a) Estimates of eligible and available residents within each economic region will be evaluated relative to the projected employment for relevant occupations.
- b) all occurrences where the department is unable to assist an employer to place a qualified resident will be recorded as to the specific occupation and area. Subsequent cases will not require resident placement in that occupation and area until sufficient data exists to indicate that qualified residents are available.

7. Resident hire legislation requires comprehensive statistical support of the displacement of residents by nonresident workers, and the resulting social effects.
8. Extensive mainframe data processing costs will be required. No one computer file has all of the information necessary for the analysis required by this legislation. Records of several files have to be matched together by Social Security Number (SSN), and information on occupational titles and Certified Payrolls entered and edited.

Computer Files

UI wage items - Currently consists of about 2 million records. The number of records grows with increases in employment. Contains an employer number, and wages earned by quarter for each employee subject to UI coverage.

The occupational title of each employee is a critical new variable will be collected beginning in FY 87. This will be essential to analyze the displacement of residents. Collection of this information will be phased in over a three year period, meaning that processing volumes will increase sharply in both the second and third years with smaller increases in FY 90 and FY 91.

ES-202 - Over 15,000 records contain an employer number, and the employer's industry and area.

Permanent Fund Dividend (PFD) - Consists of nearly one half million records each year. Two years of PFD files are required to match against other files to identify residents. While the files overlap for most residents the second year of PFD data is necessary to identify new residents, and the first identifies those residents who either left Alaska or died prior to filing for the second year.

Beginning with the 1986 PFD data additional processing will be necessary to identify:

- a) the area of residence within Alaska.
- b) the labor force status of residents, eg. self-employed, federal, UI covered, or long term unemployed.

Labor force status - Developed from a match of the PFD and UI wage item files, this database of over one quarter million records will be used to estimate:

- a) Characteristics of Alaska's resident labor force who did not work under UI coverage in the most current year.
- b) The number of Alaska residents who worked under UI coverage who chose not to include their Social Security Number (SSN) on their PFD application (SSN has not been required since 1984).

UI Benefit - Identify about 700,000 claims for UI benefits each year. Records contain the amount paid by week, an employer number, and the occupation of the claimant.

Labor Supply - A new database necessary to permit the department to make the determinations required of the amount of work that must be performed by eligible qualified residents. Detail will be contained on the area and occupation of eligible qualified residents.

Social Impact -- Another new database which will contain information on social problems that can be correlated to unemployment. This is necessary for the determinations of qualifying areas.

Labor shortage occupations - This new database will contain all occupations, by economic region, that have been identified as having inadequate numbers of eligible residents available for placement.

Quality control look up tables - Data will be rigorously edited to insure quality control. Computer tables containing the names and associated codes of areas, and occupations will be developed, maintained, and utilized to edit other files.

The most extensive use will occur as occupational titles are converted to numeric codes. All acceptable spellings of occupational titles, and their associated occupational codes, will be constantly updated for each detailed industry group.

Analytical files - Several files will be created from the computerized matching of characteristics from the same individuals, or firms, found in multiple files described above. Where practical these files are down loaded to microcomputers for more extensive editing, analysis, and formatting. This holds down costs, allows efficient analytical extractions and tests, and permits fast preparation into the final camera ready required reports.

Key Entry

Entry of occupational titles - This additional field will be added to all UI wage item reports from employers. As detailed in item #3 reporting from industries will be phased in. Costs are estimated to be \$20,000 in FY 87, \$40,000 in FY 88, and \$62,000 in FY 89. Increases in FY 90 and FY 91 are anticipated due to inflation and a greater number of firms.

Data Processing Applications Development (Programming)

Programming costs include: modification of programs used last year (\$2,000); development of new applications in FY 87 (\$25,500); and system maintenance, and analytical extractions (\$2,000) in all years. Estimated total programming costs are \$29,500 for FY 87 (983 hours @ \$30 per hour including all benefits and overhead), dropping to \$4,250 (142 hours @ \$30 per hour) in FY 88, and experiencing small inflationary costs in FY 90 and FY 91. The following new applications will be developed in FY 87:

- a) Extraction of ZIP codes from the 1986 PFD files, subsequent reallocation to census areas and economic regions, and writing of the geographic codes to other files (\$2,500).
- b) Development of a labor supply database, with all coding converted to Standard Occupational Classification (SOC) codes (\$5,000).
- c) Development of a social impact database (\$5,000).
- d) Creation of the labor force status database by extracting type of work information from the 1986 PFD files and matching against the UI wage items and ES-202 files (\$3,000).
- e) Creation of a labor shortage occupations database (\$1,000).
- f) Conversion of occupational titles to SOC codes (\$5,000).
- g) Matching of SOC codes to SSN and area of residence (\$4,000).

DP Operations (computer costs on DOL mainframe)

Primary processing will be done on the DOL computer. Costs are allocated to projects based upon use, in conformance with federal and state accounting requirements. Microcomputers will be used for analysis when possible to minimize costs. Mainframe data processing costs for the first year are estimated below:

- a) Match 1985 UI wage file to 1985 PFD = \$9,000
- b) Match 1985 UI wage file to 1986 PFD = \$9,000
- c) Merge the two files created in (a) and (b) = \$2,000
The processing listed in items (a), (b), and (c) are necessary to identify workers as to their Alaska residency. Costs are based upon similar work done early in FY 86.
- d) Identify residency by Census Area = \$15,000 - This legislation requires specification of residency by Alaska's 23 Census Areas. The 1986 (and subsequent years') PFD files will be processed to extract ZIP codes. These in turn will be converted to Census Area and written to the file created from item (c).
- e) Determine the residency status, by Census Area, of workers who received UI benefits = \$5,000 - The UI benefit file will be matched to the files created in items (d) and (e), and subsequently processed to create in a file identifying the occupation, industry, and resident status of workers who received UI benefits.
- f) Labor supply database processing = \$9,000 - This legislation mandates that "The commissioner of labor shall determine the amount of work that must be performed under this section by eligible qualified residents" [Sec 36.10.150 (b)]. This database will be analyzed to assess the numbers of eligible qualified residents relative to the expected employment within each economic region.
- g) Social impact database processing = \$12,000 - After determining which social variables are available to our department that data will be extracted and converted to standardized coding. Extensive extractions of this database will be performed to indicate the correlation of unemployment to other social ills.

- h) Labor force status processing = \$4,000 - Described earlier under computer files this database will permit us to answer questions anticipated in future court challenges of this legislation.
- i) Conversion of occupational titles to numeric codes = \$30,000 - A critical facet of this legislation is the identification of the displacement of Alaskans by nonresidents. In past court challenges to resident hire the State was not able to prove that unemployed residents had the same skills as employed residents.

To answer this question requires the identification of all workers by occupation by employer, those occupational titles will then be converted to Standard Occupational Classification (SOC) codes. Editing will be extensive and assisted interactively by staff who will be constantly updating the occupational titles which are acceptable for each industry, and matching those titles to the correct SOC codes.

About 250,000 occupational titles will be collected and edited in FY 87. This will increase to over 600,000 in FY 88, and over 1,000,000 in FY 89 as additional industries are phased in. Costs per record for this conversion will be higher than matching of other files because of the large character field which will be compared.

Both staff and processing costs per record are expected to be highest when new, or uniquely spelled, occupational titles are encountered for the first time. For this reason costs are expected to increase at a rate smaller than the increase in the number of occupational titles processed. Estimated processing costs are \$30,000 in FY 87, \$40,000 in FY 88, and \$50,000 in FY 89.

- j) Matching SOC codes to other files = \$9,000 - SOC codes will be matched to the files created in items (d), (e), (g), and if possible (h). Costs will increase in later years as the number of occupational titles collected increase (FY 88 \$12,000, and FY 89 \$15,000).

k) Analytical extracts = \$12,000 - Extraction of files will be done for three purposes:

- a) Large scale quality control edits.
- b) Sorting and grouping of data into special combinations such as Census Area as required to make the determinations specified in this legislation.
- c) To download to microcomputers for further editing, analysis, and reformatting.

Costs will increase in subsequent years as the number of records processed (especially with occupational titles) increase (FY 88 \$15,000, and FY 89 \$16,000).

9. Printing costs for the annual report are estimated at \$4,500 the first year with inflationary increases in FY 90 and FY 91. This is based upon an assumption of 1,500 copies at \$3 each.
10. Long distance phone calls will be done on a daily basis to verify the accuracy of occupational titles. The greatest number of calls will occur in the first year that an industry is surveyed. After the first three years the costs would drop.

Additional calls will be necessary each year to address the annual report requirement to determine "methods to increase resident hire." High nonresident employment by occupation, industry, and/or area will be identified in our statistical work. Calls will be made to follow up on the reasons for the high nonresident employment and solutions to increase resident hiring will be sought.

11. Equipment lease and maintenance is associated with the acquisition of three microcomputers, peripherals and communications to the DOL mainframe. Our experience in producing the resident hire report NonResidents Working In Alaska indicated that:

- a) Microcomputers saved about eight months in the preparation of the report. This was due to a combination of faster analysis, easier formatting, more efficient editing of both data and text, and camera ready output.
- b) Edits on the microcomputer were cheaper and more immediate.
- c) Errors were not introduced from the reentry of information.

These factors will be even more important in preparing the determinations and information required by this legislation because it is much more complex than our earlier study.

Position Title Statistical Clerk			No. of Positions 1	Range/S 108	Harg. Unit 610	Gov. Leg.	Approv.	Disapp.
Time Status PFT	Staff Months 12.0	RP Number	Location Juneau		Election District 4			
Type of Expenditure			Justification					
			This position will work on the quality control of occupational titles which would be submitted by employers each quarter. Specifically, the duties would be:					
Amount			<ol style="list-style-type: none"> 1. Review detailed edit listings. 2. Update edit data files. 3. Call employers for clarification when necessary. 4. Correct occupational titles. 5. Prepare computer summaries of results. 					
1	2	3	Contractual costs for this position include phone, training, and other miscellaneous items.					
Salary	23,580							
Benefits	8,458							
Premium Pay								
Other								
Total Personal Services		32,038						
Travel		0						
Contractual		3,600						
Commodities		365						
Equipment		1,300						
Other								
Total Cost		37,303						
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004					
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
			37,303					
For B&M Use Only								
Key Number								

**Request For
New Position**

Agency Labor
 BRU Administrative Services
 Component Special Services

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 Revised Date

FY 87

Position Title Labor Economist III			No. of Positions 1	Range/Step 18B	Hrg. Unit GGU	Gov.	Approv.	Unsupp.
Time Status PFT	Staff Months 12.0	RP Number	Location Juneau		Election District	Leg.		
Justification								
Type of Expenditure			This position will have primary responsibility for the analysis of data, the preparation of the annual resident hire report, and the determination of the amount of work required in underemployed areas. Specifically, the duties would include:					
1	2	3						
Salary	40,188							
Benefits	12,283							
Premium Pay								
Other								
Total Personal Services	52,471							
Travel	0							
Contractual	3,600							
Commodities	365							
Equipment	1,400							
Other								
Total Cost	57,836							
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004					
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
			57,836					
<div style="border: 1px solid black; padding: 5px; width: fit-content;"> For B&M Use Only Key Number _____ </div>								

1) Coordinate the collection and monitor the validity of relevant resident hire related statistics from other agencies.

2) Coordinate the updating and crossmatching of resident hire related data files with the analyst programmer.

3) Develop, collect, and analyze data that are required to determine the amount of work to be done by nonresidents in underemployed areas.

4) Supervise the statistical technician who will collect new data for the determination of work by nonresidents, and develop the occupational code conversion program.

5) Analyze microcomputer resident hire data bases to generate resident hire related tables and reports.

6) Supervise the Statistical Clerk that will prepare the basic resident hire data tables for the report.

Contractual services costs include equipment lease, training, and other miscellaneous items.

**Request For
New Position**

Agency Labor
BRU Administrative Services
Component Special Services

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Revised Date

FY 87

Position Title Labor Economist II			No. of Positions	Range/Step 16B	Org. Unit GGU	Gov.	Approv.	Disapp.
Time Status PPT	Staff Months 3	RP Number	Location Juneau		Election District	Leg.		
Justification								
Type of Expenditure			Amount					
1			2			3		
Salary			8,412					
Benefits			4,965					
Premium Pay								
Other								
Total Personal Services			13,377					
Travel								
Contractual			900					
Commodities			100					
Equipment			0					
Other								
Total Cost			14,377					
Receipt Code		Funding Source						
		Federal Receipts 1002						
		G. F. Match 1003						
		General Funds 1004		14,377				
		I-A Receipts 1005						
		Program Receipts 1028						
		CIP Receipts 1061						
		Other						
For B&M Use Only								
Key Number _____								

This part-time position will be necessary to help the Labor Economist III analyze and compile data for the annual resident hire report. This position will work for three months prior to the report deadline.

Specific duties include:

1) Conduct exploratory data analysis of economic information that illustrates the effect of the nonresident worker in the Alaska economy; show the degree of displacement of residents by nonresidents.

2) Use a microcomputer to prepare graphs tables and narrative that result from the exploratory data analysis.

Contractual services include miscellaneous phone, training and equipment lease cost.

**Request For
New Position**

Agency Labor
 DRU Administrative Services
 Component Special Services

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 Revised Date

FY 87

Position Title Statistical Technician I			No. of Positions	Range/Step	Barp. Unit	Gov.	Approv.	Disapp.
Time Status	Staff Months	RP Number	Location	Election District	Leg.			
PFT	12		Juneau					
Type of Expenditure			Justification					
		Amount	<p>This position will have primary responsibility for assisting the Labor Economist III with the collection, and formulation of data for the resident hire report and for the determination of the amount of work to be done by nonresidents. This position will be heavily involved in the quality control of data collected. Specifically, the duties would include:</p> <ol style="list-style-type: none"> 1) Collect and edit data to be used to analyze labor supply, and labor shortage of Alaska workers; collect and edit data on social variables to be correlated to the impact of unemployment. 2) Create and use quality control look up tables to ensure all data are properly coded; this includes industry, occupation, and area codes. 3) Use the microcomputer to load information into spreadsheets to show the occupational displacement of residents by nonresidents. 4) Prepare and update tables of economic information by resident status. <p>Contractual services costs include phone, equipment lease, training, etc.</p>					
1	2	3						
Salary	26,592							
Benefits	9,152							
Premium Pay								
Other								
Total Personal Services		35,744						
Travel								
Contractual		3,600						
Commodities		365						
Equipment		1,300						
Other								
Total Cost		41,009						
Receipt Code	Funding Source							
	Federal Receipts	1002						
	G. F. Match	1003						
	General Funds	1004						
	I-A Receipts	1005						
	Program Receipts	1028						
	CIP Receipts	1061						
	Other							
Total			41,009					
For B&M Use Only								
Key Number								

**Request For
New Position**

Agency Labor
 BRU Administrative Services
 Component Special Services

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 Revised Date

FY 87



Alaska State Legislature

House

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: The Honorable Mike Miller, Chair
House Judiciary Committee

FROM: Representative Marco A. Pignalberi

DATE: April 21, 1986

RE: SSHB 367

Enclosed is a letter from Attorney General Ron Lorenson, suggesting an amendment to SSHB 367, "relating to resident hire on natural resource projects". Would you please add this amendment to the bill while it is in your committee?

MAP: drb

enc.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

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

April 21, 1986

The Honorable Marco Pignalberi
Alaska State Legislature
P. O. Box V
Juneau, AK 99811

Re: SSHB 367, relating to resident
hire or natural resource
projects

Dear Representative Pignalberi:

This responds to your letter of April 14, 1986 inquiring whether the provisions of SSHB 367 could be interpreted to inhibit an employer from transferring employees from outside Alaska to jobs in Alaska.

At first blush my reaction was that this would not present a problem -- particularly if SSHB 367 is amended slightly in the manner used in SB 271 to clarify that the preference applies at the time of hire for an unfilled position (see Senate Journal, April 11, 1986, p. 2316, Amend. No. 2). However, on further reflection, it does seem possible that a very aggressive enforcement posture might lead to the interpretation you have suggested.

In order to avoid the potential for this problem, I would suggest an amendment to the bill along the following lines:

at page 3, lines 22-24, delete the existing provision and insert the following:

Sec. 38.45.035. EMPLOYER PREROGATIVES. (a) An employer shall determine and judge the work qualifications of applicants for employment.

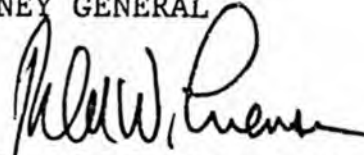
(b) Nothing in this chapter shall be interpreted to limit an employer's ability to make bona fide transfers of employees from one project or other business activity to another.

I hope this is responsive to your question.

Sincerely yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By:


Ronald W. Lorensen
Deputy Attorney General

RWL/me

cc: Senator Jan Faiks
Sponsor, SB 367

Senator Joe Josephson
Sponsor, SB 271

Representative Red Boucher
Sponsor, HB 466

Bob Landau, Deputy Commissioner
Department of Labor

Art Peterson, Assistant Attorney General
Department of Law



Official Business

Alaska State Legislature

House

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: The Honorable Mike Miller, Chair
House Judiciary Committee

FROM: *MB* Representative Marco A. Pignalberi
in

RE: CSSSHB 367

DATE: April 22, 1986

CSSSHB 367 passed out of Labor and Commerce a week and a half ago and now rests in your committee. As you may already know, the bill would set-up a framework for instituting a resident hire preference for all natural resource projects on state land. It is similar in structure to Red Boucher's public works bill and identical to the latest version of SB 271. It is imperative that this bill pass this session in order for it to effect the next two construction seasons. As I tell my constituents, these two seasons will most likely be the last "boom-sized" periods for a few years to come. It seems only just that Alaskans are able to reap the benefits resulting from the development of their resources.

With this in mind, I'd ask that your committee conduct hearings on CSSSHB 367 (L&C) as soon as possible.

MAP: drb

Box 272
Copper Center, AK 99573
May 3, 1986

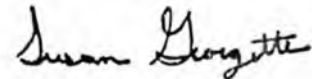
Dear Legislator:

I feel I am like most Alaskans in that I support local hire. When jobs are few and unemployment is high, local hire is especially important to address our social and economic problems.

I think it's outrageous that Senator Jan Faiks and Paul Fischer are trying to kill SB 271, which would establish local hire on natural resource projects on state land. This bill uses the same approach as SB 367, the public works local hire bill which unanimously passed the Senate. I don't know why two Finance Committee members believe they have the right to kill legislation sponsored by 15 other Senators!

Please urge Senators Faiks and Fischer to allow the democratic process to work, or else please pass an equivalent bill in the House. We need the strongest possible local hire measures enacted this year.

Sincerely,



Susan Georgette

Enclosure: Friday's Anchorage Daily News article on this subject

Anchorage Daily News



Winner, 1976 Pulitzer Prize Gold Medal for Public Service

Gerald E. Grilly
Publisher

Howard Weaver
Managing Editor

Suzan Nightingale
Editorial Page Editor

Katherine Fanning, Editor and Publisher 1971 to 1983
Lawrence Fanning, Editor and Publisher 1967 to 1971

Alaska's Only Morning Newspaper • Founded In 1946 by Norman C. Brown

May 2, 1986

Finishing the job on local hiring

Progress has been made on local hiring this session, but more can be done before legislators head home. The Senate has passed one measure that requires local hiring on state public works projects — but a companion measure that finishes the job is languishing in "committee."

That bill, establishing a local hiring preference on natural resource projects, is dying in Sen. Paul Fischer's one-man Senate Finance Subcommittee.

An amended version of SB 271 establishes an employment preference for Alaskans who are underemployed or unemployed. The bill, which will need at least a year of careful census research before it becomes enforceable, is designed to require oil companies and other industries with projects on state land to hire Alaska residents with a demonstrable need for work.

Fourteen senators joined the original author, Sen. Joe Josephson, to co-sponsor this moderate approach to local hiring. That should be enough votes to pass the bill, right? Wrong.

Sen. Fischer has given no indication this local hire legislation will leave his subcommittee. And the Finance co-chairman, Sen. Jan Faiks, defending Fischer's inaction says, "I imagine there's going to be literally hundreds of bills dying in Finance this session." True enough, but how many bills with overwhelming Senate support won't get to the floor for a vote?

Sen. Josephson's bill is a modest attempt to provide limited protection to Alaskans most in need of work. It deserves an up or down vote. If Sen. Paul Fischer believes the bill is bad — and he has doubts about its constitutionality — he can vote against it. That's his privilege and responsibility. But he shouldn't kill the bill by holding it until his colleagues go home.