

ALASKA LEGISLATURE COMMITTEE FILES 1983-1986 80/2

4185 SLAB SB 271 - SB 286 1565



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

11/24/89
Date

S B

2 7 1



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

FOR IMMEDIATE RELEASE
April 8, 1985

EXPANSION OF LOCAL HIRE PROPOSAL

JUNEAU, AK -- Senator Joe Josephson today introduced Senate Bill 271, which would reapply local hire requirements to oil company activities on state leases.

This issue first arose in 1973 when the Legislature enacted a local hire program covering nearly all oil company, subcontractor, and supplier employees. "Since this law was struck down by the Supreme Court in 1978, oil companies and other private employers have been hiring a higher percentage of non-Alaskans for Alaskan jobs," according to Josephson.

The current local hire law, introduced by Senator Josephson in 1983, only applies to public works contracts using state funds. SB 271, if enacted, would extend Alaskan hire to private sector employees working on state-leased property. "No longer will oil companies and their contractors be able to recruit large numbers of non-residents while leaving qualified Alaskans unemployed," said Senator Josephson.

(more)

Press release, clippings

In preparing this bill, Senator Josephson reviewed the 1978 decision of the United States Supreme Court (Hicklin v. Orbeck) which invalidated the former Alaska local hire law.

According to Josephson, "That decision conceded that a state, in setting forth the conditions under which the people's property is developed, may favor residents for employment purposes, if the state program is not overbroad and is properly tailored to meet the cause of unemployment in the state."

"But the Court found that the old Alaska statute was too broad. It affected distribution systems, including pipelines, refineries, and suppliers. Senate Bill 271 cures that concern, and affects only employers working on state-leased property and their employees.

"When the Court decided Hicklin v. Orbeck, it thought that Alaska's unemployment problem was the result of an absence of trained, skilled workers able to meet the requirements of the new petroleum industry in the state.

"Whatever merit there may have been when the decision was made in 1978, based on reports dating back to 1971 -- and I believe that the Court was not adequately informed about the Alaska workers then available -- it can no longer be argued that Alaska lacks a skilled, available, trained work force of residents.

(more)

"In my judgment, the work force is now indisputably qualified. And the State, for its part, has much more sophisticated data available as evidence to show the impact of nonresident workers entering Alaska and recruited from Outside.

"These changing conditions mean to me that the factual premises are now significantly different.

"When the Hicklin v. Orbeck case was before the Court, the legislation had included a one-year residency requirement as a test for qualifying as a resident worker.

"It is clear that the one-year requirement will not pass constitutional muster; accordingly, Senate Bill 271 substitutes a lawful 30-day physical presence plus intent-to-remain standard which we are assured is constitutional.

"Recently available data show a trend towards recruitment and hire of non-residents, while qualified and experienced Alaska workers are not employed. This trend violates the expectations of Alaska workers and leaders dating back to the time when the Legislature made concessions to industry, and even back to the very beginning of North Slope development. Senate Bill 271 is not free of constitutional question, but it is an earnest and careful

(more)

Local hire

- 4 -

effort to remove offending provisions of the old law, and to use every available and appropriate state power to encourage the employment of qualified Alaskans."

For further information contact:
Senator Joe Josephson
465-4525

Editorial

Josephson's Local Hire Bill Is Right on Target

State Senator Joe Josephson has come up with a local hire bill that gets to the heart of the problem of oil companies on the Slope encouraging the hiring of non-resident Alaskans while qualified Alaskans sit on the bench waiting for work. That bill would require companies doing business on state leases to hire Alaskans first.

"No longer will oil companies and their contractors be able to recruit large numbers of non-residents while leaving qualified Alaskans unemployed," Sen. Josephson said in introducing the measure.

Josephson said he had found a way around Constitutional problems that led the U.S. Supreme Court to strike down a 1973 local hire law. Josephson, a lawyer and member of the Senate Minority, said the 1973 law was "overboard" and affected distribution systems, including pipelines, refineries, and suppliers. By narrowly tailoring a bill excluding these Josephson said the act would meet a constitutional test. In addition, he said the Supreme Court found that Alaska did not have a trained work force at the time of its ruling but that such was no longer the case.

"In my judgment, the work force is now indisputably qualified. And the state, for its part, has much more sophisticated data available as evidence to show the impact of non-resident workers entering Alaska and recruited from Outside," Josephson said.

Although a minority bill, he said he thought it would get a fair hearing. Majority members Jay Kertula (D-Palmer) and Fred Zharoff (D-Kodiak) have co-sponsored the bill. Zharoff has slated hearings on the bill next week in his Labor and Commerce Committee.

We commend Senator Josephson for his measure.

When we originally suggested editorially that it was time to consider another local hire law in light of the Wyoming Supreme Court's decision on the Wyoming Hiring Preference Law, we envisioned companies working on state leases would be included. And we must admit we were a little chagrined that local hire as passed the House 39-0 included only projects which receive some state funding. Such would leave practically the entire North Slope uncovered by the local hire law and that precisely is where the problem is.

Lt. Governor Stephen McAlpine a strong supporter of local hire and Josephson's bill points out that \$1.2 billion per year is being earned by workers who don't apply for the Permanent Fund dividend, in other words, who don't consider themselves residents. Previously, Governor Sheffield released figures that more than 600 workers on the Slope had indicated they were not residents. No doubt many others have nothing more than

post office box addresses to evidence their claims residency.

Alaska gets revenue chiefly in two ways: through taxation and through salaries and wages which generate a multiple effect through the economy. If the secondary means of obtaining revenue dries up, the Alaska people are going to clamor for more taxes on the oil industry. Incidentally, another bill to increase corporate income tax on the oil companies has been introduced in the legislature.

Big Oil appears to take the attitude it is so big it can do almost anything it wishes. By now it should be crystal clear that they cannot continue to escalate the hiring of non-resident Alaskans while qualified Alaska residents are ready, willing and able to work. Alaskans simply won't stand for it.

Letters

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

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

OFFICE OF THE ATTORNEY GENERAL

April 16, 1985

The Honorable Fred Zharoff
Chairman, Senate Labor and
Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: SB 271: Resident Hire
Under Oil and Gas Leases

Dear Senator Zharoff:

I am responding to a request from a member of your staff for our comments regarding SB 271, which deals with resident hire under certain oil and gas leases. Unfortunately, I will be in Anchorage at the time of your committee's scheduled hearing on this bill. However, if any questions arise during the course of that hearing, I would certainly be happy to respond to them upon my return early next week.

As you probably know, the Alaska Legislature first enacted a resident hire law with respect to state oil and gas leases in 1972. That law, AS 38.40, was enforced by the Department of Labor throughout the period of construction of the Trans-Alaska Pipeline, but was ultimately held unconstitutional by the United States Supreme Court in the case of Hicklin v. Orbeck, 437 U.S. 518 (1978). SB 271 appears to be an attempt to craft a resident hire requirement for employment activity on state oil and gas leases, etc., which would satisfy the concerns of the U.S. Supreme Court in Hicklin. However, the new preference established by the bill may still be found by the courts to exceed the permissible scope of a state's ability to establish employment preferences for residents, consistent with the Hicklin case.

In Hicklin, the U.S. Supreme Court found essentially three separate problems with "Alaska Hire":

- 1) The court did not believe that the justifications advanced by the State in favor of the resident preference were adequate. At the time the legislature adopted AS 38.40, it did not have before it an adequate factual basis to validate its determination that state

Dept. of Law response

intervention in the job market in the form of an employment preference for residents was necessary.

2) Even if the State could have adequately justified imposing a resident hire requirement on certain employers, the broad sweep of AS 38.40 in applying to any employer who benefited in some manner from the "economic ripple effect of Alaska's decision to develop its oil and gas resources" simply went too far, in the Court's view. As the Court pointed out, "Alaska hire extends to employers who have no connection whatsoever with the State's oil and gas, perform no work on state land, have no contractual relationship with the State, and receive no payment from the State." Hicklin, at 530.

3) Even if the State could have justified imposing a resident hire requirement, and even if it only applied to an employer who had a direct relationship with the State (i.e. by contract or by working on State-owned land) the scope of the preference as it applied to individual residents was still too broad. In this regard, the court noted that "Alaska Hire simply grants all Alaskans, regardless of their employment status, education, or training, a flat employment preference for all jobs covered by the Act. . . . If Alaska is to attempt to ease its unemployment problem by forcing employers within the State to discriminate against non-residents -- again, a policy which may present serious constitutional questions -- the means by which it does so must be closely tailored to aid the unemployed the Act is intended to benefit." Hicklin, at 527-528.

While SB 271 does address some of the concerns raised in Hicklin, it appears to leave some of them unresolved:

1) Although the bill sets out a broader and more comprehensive set of legislative findings (AS 38.45.020), I am not aware that any factual studies or other kinds of inquiries have been conducted which would provide a firm basis for these findings. If they do exist, they should be presented during the course of the legislature's consideration of the bill and made a part of the legislative record. In that regard, I understand there is a proposal under active consideration in the House (HB 295) which would appropriate \$100,000 to the Department of Labor for just such a study.

The Honorable Fred Zharofr
Chairman, Senate Labor and
Commerce Committee

April 16, 1985
Page 3

2) The bill does seem to address the problem in Hicklin of applying the resident hire requirement to too broad a range of employers. Under the bill, only employers engaged in activity on state lands would be subject to the law.

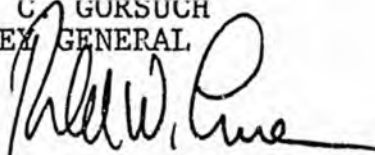
3) The bill does not address the problem in Hicklin of giving all state residents an employment preference, whether or not they are unemployed or underemployed. In this regard, creating "employment target groups" comprised of unemployed residents, chronically underemployed residents, and training-qualified residents should respond to those concerns in Hicklin.

If I can provide any further background or assistance, please do not hesitate to contact me.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:


Ronald W. Lorensen
Deputy Attorney General

RWL:vrh

cc: Honorable Joe Josephson
Senator

Honorable Red Boucher
Representative

Honorable Marco Pignalberi
Representative

International Brotherhood

of Electrical Workers

TELEPHONE
(907) 272-6571
TELEX 25-250

J. J. "JACK" HULL
BUSINESS MANAGER • FINANCIAL SECRETARY



2702 DENALI STREET
ANCHORAGE, ALASKA 99503

ERIC WORTHINGTON
PRESIDENT

Local 1547



April 23, 1985

The Honorable Senator Zharoff
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Zharoff:

Thank you very much for the opportunity to speak before the Senate Labor and Commerce Committee regarding SB 271 on April 17, 1985.

In order to help facilitate the hearing process, I shortened my presentation before you. However, I have enclosed my complete written testimony and a copy for each member of the Senate Labor and Commerce Committee.

If you need any further statistics or other information from our organization, please contact me or Jack Hull, the Business Manager, and we will be sure to assist you in any way we can.

Sincerely,

Dixie Lee Hudish
Industrial Relations Officer

Enclosure

cc:

Senator Sackett
Senator Ray ✓
Senator Eliason
Senator Bennett
Senator Josephson
Senator Kertulla
Senator V. Fischer
Representative Pignalberi
Representative Cotten
Representative Davis
Representative Phillips
Representative Hurley
Representative Navarre
Representative Goll
Representative Sund

DLH/eb

PUBLIC TESTIMONY

ON

SB 271

April 17, 1985

Mr. Chairman, members of the Senate Labor and Commerce Committee:

My name is Dixie Hudish, Industrial Relations Officer for the International Brotherhood of Electrical Workers (IBEW), Local No. 1547, 2702 Denali Street, Anchorage, Alaska 99503. I am speaking on behalf of Jack Hull, Business Manager, of the IBEW.

First of all I would like to thank those legislators who have worked so diligently on this proposed Bill that the IBEW wholeheartedly supports SB 271.

The IBEW is most concerned with out of state firms who are awarded bids for construction and bringing their own workers from out of state.

Presently, in our Fairbanks office, where jobs are dispatched out for slope work, we have approximately 200 residents in all four classifications (Communication, Wireman, Lineman and Apprentice)

out of work. We have only 100 members (local residents) working on the slope at this time. Compared to 600 residents last year who are on Book I. Local resident members who have lived in Alaska one year and have worked a certain number of hours (2,080 hours within the past four years) in the trade are dispatched first from Book I.

We have better than 32% Alaska natives in the Apprenticeship program at Fairbanks. These apprentices are from Barrow, Nome, Kotzebue, Galena, Tanana and Fort Yukon. Yet there are 40 apprentice wireman and 120 wireman out of work from the Fairbanks dispatch area.

We have 12% Alaska Natives in the Apprenticeship program in Anchorage and there are presently 70 apprentices out of work (34 wireman, 24 lineman, and 12 communication). Most of these Alaska Native apprentices are from the Bethel area.

We know that a majority of our local people are losing their jobs, primarily from out of state firms who are hiring their own people and bringing them up here to work on the slope.

I would like to mention several oil field firms who are doing just that:

1. GSL Oil Field Service - A firm out of Corpus Christi, Texas, who is working out of the Prudhoe Bay Hotel. They have up to 50-60 workers, mostly out of state, presently hired as maintenance road crews.
2. Pingo Oil Field Service - They hire maintenance people and are of state.
3. North Oilfield Service - Out of state people.
4. Udelhoven Oil Field Service - A good portion of their workers are out of state and work at Kapuruk.

These oil field services are mostly subcontracted by either ARCO or SOHIO.

VECO is another large firm who hires a lot of out of state workers.

The IBEW has not dispatched any non-resident since September 1984.

Out of approximately 300 total electricians working on the slope -- we can fairly say 200 are not local people. The situation

appears not to be getting any better for our local workers, but worse.

We have approximately 300 local people out of work from the Anchorage Dispatch office. This is a very large amount of our members unemployed. Many of these members, I am sure are drawing unemployment.

We have seen many situations where outside firms are awarded contracts only to hire people from outside. Case in point is the Irby Construction Company from Jackson, Mississippi, who received the contract to build the Inter-tie line between Fairbanks and Anchorage. You might say one-half of the line was built by out of state people.

I could continue on with more examples, but I feel I have painted a big enough picture for all of you to realize the situation our local resident members are up against. One only needs to come up on a flight out of Los Angeles, etc. to verify the number of out of state workers heading for the North Slope. The IBEW feels this bill would favorably help the economic picture of Alaska. The oil and gas industry needs to be more responsive to the needs of resident hire and this bill would provide just that.



LABORERS INTERNATIONAL UNION OF NORTH AMERICA

LOCAL NUMBER 942

OFFICES: 315 BARNETTE ST., FAIRBANKS, ALASKA 99701 PHONE (907) 456-4584
369 S. FRANKLIN STREET, JUNEAU, ALASKA 99801 PHONE (907) 586-2860

WILLIE LEWIS
President

JOE J. THOMAS
Business Manager and
Secretary-Treas.

JUNEAU OFFICE
JAMES R. WAKEFIELD
Assistant
Business Manager

The following is a breakdown of people dispatched to work through Laborers Local #942 between January 1984 and April 10, 1985.

Total Dispatched - 4278
Residents - 3923
Nonresidents - 355
92% Resident Hire

Total dispatched from Fairbanks hall for work at Prudhoe Bay.

Total - 1833
Residents - 1620
Nonresidents - 213*
88% Resident Hire

*Better than 90% of this figure was name requests by Employer.

Total dispatched from Fairbanks hall for all work other than Prudhoe Bay.

Total - 2030
Residents - 1896
Nonresidents - 134
93% Resident Hire

Total dispatched from Juneau and Ketchikan halls (includes all of South-eastern Alaska.)

Total - 415
Residents - 407
Nonresidents - 8*
98% Resident Hire

*All eight were name requests by Employers as foremen or individuals with special skills.

Total dispatched by all three Local #942 Hiring Halls (Fairbanks, Juneau, Ketchikan) for work other than Prudhoe Bay.

Total - 2445
Residents - 2303
Nonresidents - 142
94% Resident Hire

MR. CHAIRMAN AND MEMBERS OF THE SENATE LABOR AND COMMERCE. MY NAME IS CHARLIE ELDER AND I AM AN EMPLOYEE OF SOHIO AS AN EXECUTIVE CONSULTANT FOR OUR INTEREST IN ALASKA.

MY PURPOSE TODAY IS TO LAY ON THE TABLE SOHIO'S OBJECTIONS AND COMMENTS ON SENATE BILL 271, AND I WILL ATTEMPT TO BE BRIEF. I WILL BE GLAD TO HAVE QUESTIONS AT ANY TIME DURING MY COMMENTS. AND, OF COURSE, IT WILL BE OPEN SEASON AT THE CONCLUSION OF MY REMARKS. I WILL COMMENT TODAY ON A NUMBER OF PROVISIONS OF SF271, BUT OVERRIDING ALL OF THE LATER STATEMENTS IS THE FACT THAT THIS BILL GREATLY ERODES OUR RIGHT TO MANAGE. THIS IS AN INHERENT RIGHT AND ABSOLUTELY NECESSARY IF WE ARE TO DO THE BEST JOB IN THE INTEREST OF OUR COMPANY, EMPLOYEES, AND STOCKHOLDERS. IN VIEW OF THE STAKE THE STATE OF ALASKA HAS IN OUR PERFORMANCE, SUCCESSES AND FAILURES, THE LACK OF MANAGEMENT CONTROL, I BELIEVE, WILL FAR OUTWEIGH THE PROVISIONS OF THIS BILL AND SHOULD BE A FACTOR IN YOUR DELIBERATIONS. THE "RIGHT TO MANAGE" IS UNIVERSALLY RECOGNIZED AND IN MY NEARLY 40 YEARS WITH SOHIO I HAVE NEVER SIGNED A CONTRACT (AND THERE HAVE BEEN MANY) WITH A UNION OR A NONUNION CONTRACTOR WHICH DID NOT CONTAIN REFERENCE TO MANAGEMENT RIGHTS AS FOLLOWS:

MANAGEMENT RIGHTS

SOHIO RETAINS FULL AND EXCLUSIVE AUTHORITY FOR THE MANAGEMENT OF ITS OPERATION. SOHIO RETAINS THE RIGHT TO DIRECT THE WORKING FORCE, INCLUDING THE HIRING, PROMOTIONS,

TRANSFERS, DISCIPLINE OR DISCHARGE OF EMPLOYEES: THE SELECTION OF FOREMAN; THE ASSIGNMENT OF OVERTIME WORK AND THE DETERMINATION OF WHEN IT SHALL BE WORKED. NO RULES, CUSTOMS, OR PRACTICES WHICH LIMITS OUR PRODUCTIVITY, EFFICIENCY OR THE INDIVIDUAL AND/OR JOINT WORKING EFFORTS OF EMPLOYEES SHALL BE PERMITTED.

SB271 REMOVES FROM SOHIO A LARGE PORTION OF THESE MANAGEMENT RIGHTS AND WE BELIEVE IN THE OVERALL IT WILL WORK TO THE DETRIMENT OF THE STATE. NONE OF THE FOREGOING SHOULD BE INTERPRETED THAT SOHIO WILL NOT CONTINUE ITS GOOD FAITH EFFORT TO HAVE ALASKANS IN THE JOBS WITHOUT A LEGISLATIVE REQUIREMENT TO DO SO.

THE FOREGOING IS OUR BASIC OBJECTION, BUT WE HAVE THE FOLLOWING ADDITIONAL QUESTIONS AND COMMENTS:

- I. IF THE BILL IS UNCONSTITUTIONAL WE WILL ALL FIND OUT LATER, BUT PASSING THIS QUESTION FOR THE MOMENT, IT APPEARS THE BILL IS PUNITIVE IN NATURE OR PERHAPS THE KINDEST THING THAT COULD BE SAID IS THAT IT'S GROSSLY UNFAIR IN THAT ITS APPLICATION IS LIMITED TO THE OIL INDUSTRY AND ITS SUPPORT CONTRACTORS - NOT MENTIONING OUR OTHER INDUSTRIES UTILIZING MUCH HIGHER PERCENTAGES OF NONRESIDENTS.

AN ALASKAN DOL ANALYSIS UPDATED TO MARCH 31, 1985 CONTINUES AS FOLLOWS NONRESIDENT EMPLOYMENT IN BUSINESSES AND INDUSTRIES IN THE STATE.

- A. FOOD PROCESSING (75% NONRESIDENTS).
- B. EATING AND DRINKING PLACES (51%).
- C. MINING OTHER THAN OIL AND GAS (48%).
- D. LOGGING AND LUMBER (48%)
- E. CONSTRUCTION (45%).
- F. HOTELS (44%).
- G. BUSINESS SERVICES (44%).
- H. FISHERIES ?
- I. TOURISM ?

oil-4% ??

THE OIL INDUSTRY DOES NOT EVEN MAKE THE SCOREBOARD. BY WHAT LOGIC ARE THESE BUSINESSES EXCLUDED FROM SB 271? THIS INFORMATION FLIES IN THE FACE OF LEGISLATIVE FINDINGS (2).

2. LEGISLATIVE FINDINGS (4) (5) REFERS TO THE INVESTMENT BY THE STATE IN TRAINING PROGRAMS. WHILE I AM NOT FAMILIAR WITH ANY SPECIFIC TRAINING PROGRAMS CONDUCTED FOR THE PRIVATE SECTOR, WE APPRECIATE AND COMMEND THE STATE FOR THEIR SUPPORT OF VOCATIONAL EDUCATION. SOHIO HAS MADE SUBSTANTIAL USE OF THESE FACILITIES TO TRAIN ALASKAN WORKERS. WE HAVE PAID TUITION OF \$125,000 OVER THE LAST FIVE YEARS TO THE VOC-ED FACILITIES AND HAVE ALSO AWARDED SCHOLARSHIPS AMOUNTING TO \$38,000 TO GRADUATES THROUGHOUT THE STATE FOR ATTENDANCE AT OTHER INSTITUTIONS. WE DO NOT BELIEVE THE STATE'S INVESTMENTS HAVE BEEN OF LITTLE AVAIL.

3. SECTION 38.45.030 RESIDENT HIRE PASSES THE RESPONSIBILITY OF PREPARING REGULATIONS AND ADMINISTERING PROVISIONS OF THE BILL TO THE COMMISSIONER OF LABOR AND THE COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES.

THE COMMISSIONER OF LABOR IS CHARGED WITH 17 DISTRICT RESPONSIBILITIES, INCLUDING THE ASSESSMENT PENALTIES, WHICH I WILL NOT REPEAT.

THE COMMISSIONER OF DNR HAS THE RESPONSIBILITY TO STUDY AND EVALUATE DOL CERTIFICATION, INVESTIGATION AND HOLD HERINGS, AND, IF WILLFULL NONCOMPLIANCE IS DETERMINED THE COMMISSIONER CAN IMPOSE SEVERE PENALTIES.

IN ADDITION, DOL OR DNR MAY SEEK INJUNCTIVE RELIEF AGAINST A PERSON WHO IS NOT IN COMPLIANCE.

4. INsofar AS THE EMPLOYER IS CONCERNED HE MUST, IN THE INTEREST OF GOOD BUSINESS, CONSIDER AND MAKE A JUDGMENT ON AT LEAST ELEVEN ISSUES, MOST OF WHICH ENCROACH ON HIS RIGHT TO MANAGE.

5. INsofar AS THE STATE IS CONCERNED SB271 CERTAINLY DOES NOT ENCOURAGE INVESTMENT IN OIL DEVELOPMENT, AND IT COULD PREVENT THE LOWEST COST DEVELOPMENT WHICH MAY BE NECESSARY FOR FOR THE MARGINAL FIELDS WE EXPECT TO BE WORKING WITH.

IF PASSED, SB271 WILL CERTAINLY RESULT IN HIGHER ADMINISTRATIVE COSTS IF ALL OF THE PROVISIONS ARE CARRIED OUT. I AM CURIOUS AS TO WHETHER OR NOT THIS POINT HAS BEEN CONSIDERED.

THE STATE WILL ACQUIRE A BILL THAT IS BASICALLY UNINFORCEABLE, AND ASSURES THE CERTAINTY OF MANY LAWSUITS FILED BY INDIVIDUALS, THE INDUSTRY AND ITS ASSOCIATED CONTRACTORS.

6. FINALLY, IT'S COUNTERPRODUCTIVE TO THE STATE POLICY CONTAINED N SECTION 38.45.010.

THIS CCNCLUDES MY PREPARED REMARKS.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

DRAFT

Revision Date: _____

REQUEST

Bill/Resolution No.: CS SB 271
 Title: "An Act requiring resident hire under certain gas & oil leases"
 Sponsor: Josephson, et. al.
 Requestor: Seante Labor & Commerce
 Date of Request: 4/15/85

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		69.3	71.7	193.4	200.1	207.2
200 TRAVEL		8.5	9.0	40.7	43.1	45.7
300 CONTRACTUAL		22.4	18.4	49.2	52.1	55.3
400 SUPPLIES		1.5	1.6	3.4	3.6	3.8
500 EQUIPMENT		13.2	0	5.4	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		114.9	100.7	292.1	298.9	312.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		114.9	100.7	292.1	298.9	312.0
FEDERAL FUNDS						
OTHER						
TOTAL		114.9	100.7	292.1	298.9	312.0

POSITIONS:

FULL-TIME		2	2	5	5	5
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: ¹¹⁸ Robert J. Bacolas, Sr. Phone: 465-4870
 Division: Labor Standards & Safety Date: 4/17/85
 Approved by Commissioner: ¹¹² Jim Robison Date: 4/17/85
 Agency: Labor

Distribution (by Agency preparing fiscal note):

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

Fiscal note

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA
THE FOURTEENTH LEGISLATURE
BILL/RESOLUTION NO.: CS SB 271
TITLE: "An Act requiring resident hire under certain oil & gas leases"
AGENCY AFFECTED: Department of Labor

In order to carry out the duties of this bill the Department of Labor would require the following resources:

FYs 86 and 87

One Wage and Hour Investigator I and one Clerk Typist III would be required to carry out the monitoring activities. Costs associated with these positions are detailed on the attached new position request forms.

In addition to these costs, there would be a one time expense of \$15,000 for computer equipment and software to capture residency information.

FYs 88 and beyond

The Prudhoe and Kuparuk unit agreements will possibly be renegotiated this year at which time these leases would be covered by the provisions of this bill. An additional Wage and Hour Investigator and two Wage and Hour Technicians will be required. The costs associated with these positions is summarized below:

	W&H Tech. Anchorage	W&H Tech. Anchorage	W&H Invest. I Fairbanks
Personal Service	34.4	34.4	50.3
Travel	0	0	15.6
Contractual	9.4	9.4	10.9
Commodities	.6	.6	.6
Equipment	<u>1.8</u>	<u>1.8</u>	<u>1.8</u>
	46.2	46.2	79.2

Also, an additional \$15,600 in travel expense would be incurred by existing positions for travel to the North Slope.

Assumptions

- 1) The major unitization agreements (Prudhoe Bay and Kuparuk) will not be covered by this bill until FY 88 when the agreements are renegotiated.
- 2) Inflation will be 3.5% for personal service and 6% for non personal service items.

1.	POSITION TITLE Wage & Hour Investigator I				RANGE/SILP 16A	BARG. UNIT GGU	PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCH NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		32,424							
6.	Benefits		5,401							
7.	Supplemental Benefits		1,987							
8.	Fixed Benefits		2,735							
9.	TOTAL PERSONAL SERVICES		01		42,547					
10.	Travel		02		8,500					
11.	Contractual		03		9,490					
12.	Commodities		04		500					
13.	Equipment		05		1,600					
14.	Other									
15.	TOTAL COST				62,637					
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		G.F. Match 1003								
19.		General Funds 1004				62,637				
20.		I-A Receipts 1005								
21.		Program Receipts 1020								
		Other								
FOR B&M USE ONLY KEY NUMBER _____										

This position would monitor new or re-negotiated oil and gas leases to ensure compliance with resident hire laws.

The position would interact with the Department of Natural Resources and industry contacts to establish an effective monitoring procedure.

Travel costs are to establish monitoring procedures and for monitoring compliance with resident hire law. Contractual costs include rent, \$3,600; indirect \$3,890; and other average expenses of \$2,000. Commodities of \$500 and one-time equipment costs of \$1,600 are also included.

REQUEST FOR
NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

NRU Labor Standards & Safety

COMPONENT Wage & Hour Administration

Page 1 of 2

Revised Date _____

FY 86

LEG:F:

1.	POSITION TITLE Clerk Typist III				RANGE/STLP 8A	ORG. UNIT GGU	PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				<p>This clerical position would provide typing, filing, and data entry under the provisions of this bill.</p> <p>Contractual costs include rent, \$3,600; indirect \$2,348, and other average expenses of \$2,000. Commodities of \$1,000 and one-time equipment costs of \$1,600 are also included.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary		19,572							
6.	Benefits		3,261							
7.	Supplemental Benefits		1,200							
8.	Fixed Benefits		2,735							
9.	TOTAL PERSONAL SERVICES	01		26,768						
10.	Travel	02		0						
11.	Contractual	03		7,948						
12.	Commodities	04		1,000						
13.	Equipment	05		1,600						
14.	Other									
15.	TOTAL COST			37,316						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		37,316						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&H USE ONLY										
KEY NUMBER _____										

REQUEST FOR
NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage & Hour Administration

Page 2 of 2

Revised Date

FY 86

LEG:F:

Bill No. Senate Bill No. 271

Date April 16, 1985

Title "An Act requiring resident hire under certain oil and gas leases and unitization agreements on state land; and providing for an effective date."

Contact: Robert W. Landau
465-2700
Eileen Plate
465-2700

Senate Bill 271 would establish a resident hire preference for all employment on oil and gas projects on state land.

Under the bill, the Department of Labor would be primarily responsible for: (1) establishing resident hire requirements for each oil and gas project on state land; (2) maintaining and making available a list of qualified residents seeking employment on oil and gas projects; (3) establishing and monitoring employer reporting requirements; (4) conducting investigations and holding hearings to determine compliance with resident hire requirements; (5) seeking monetary penalties and/or injunctive relief for noncompliance; and (6) promulgating requirements for oil and gas projects on state land.

Because of the beneficial impact of resident hiring on the workforce and the economy in general, the Department strongly endorses the principle that qualified Alaska residents should be given employment preference on oil and gas projects on state land. This is consistent with the view that a state is entitled to give preference to its own citizens in the development of the state's natural resources.

Although the Department supports SB 271, the bill as presently drafted would have a significant fiscal impact. We believe this impact could be reduced through the following refinements to the language of the bill:

- 1) Because of the substantial cost involved in establishing and maintaining a comprehensive list of all qualified residents for oil and gas employment, AS 38.45.030(d) should be amended to require that, upon the receipt of an employer job order for oil and gas employment, the Department will then screen its applicant pool for qualified residents and make the appropriate referrals. It would be very costly to maintain an updated list of all qualified residents interested in oil and gas employment.

In addition, making such a list available to employment agencies, unions, and other entities would run afoul of both state and federal confidentiality laws. Once such an "official" list of qualified applicants is circulated, the potential for abuse of that list is enormous. In its place, the Department recommends a job order/referral system similar to what is currently done on public construction projects.

- 2) Rather than require the Commissioner of Labor to evaluate each oil and gas project on state land and establish resident hire requirements for that project, AS 38.45.030 should simply require that Alaska residents be employed on all oil and gas projects on state

POSITION PAPER/Department of Labor

land where they are available and qualified. Where employers are unable to find available and qualified residents, the Department could then issue a "waiver" for the employment of a nonresident (as it currently does with public construction employment). This approach would shift the burden of a project labor evaluation onto the employer (who is normally in a better position to make the evaluation) and would preserve the Department's resources for supplying qualified resident applicants and, if none are available, for issuing the necessary waivers.

- 3) Under AS 38.45.050, certain cost savings could be achieved by statutorily establishing a minimum monetary value threshold for covered oil and gas projects rather than requiring the Department to engage in a complex cost-benefit analysis through the administrative regulations process.

Approved:



Jim Robison
Commissioner



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

CSSB 271: Sectional Analysis

Section 1) Adds a new chapter:

- 38.45.010: Declares that the state policy for development of natural resources includes providing employment opportunities in natural resource development projects.
- 38.45.020: Legislative Findings: references findings about unemployment in the state, investments the state has made in training programs to develop a qualified work force, the social burdens which result from resident workers being displaced by non residents, and the need for a resident employment preference.
- 38.45.030: a) employers of natural resource development projects on state lands shall meet the resident hiring requirements established by the commissioner of labor, and may not discriminate against qualified residents for employment.
- b) the commissioner of labor shall determine the amount of work that must be performed by residents on a natural resource development project on state land. Commissioner shall consider employment factors, and require an employer to make a "maximum feasible effort" to hire qualified residents for jobs on state lands.
- c) Commissioner of DNR shall incorporate into each lease, unitization agreement, or renegotiation lease, provisions requiring compliance with this chapter and authorizing penalties for non compliance.
- d) Employers subject to resident hiring requirements may request the Dept of Labor to assist in locating qualified residents. If the department is unable to refer a sufficient number of qualified residents, it may approve the hiring of nonresidents for the balance of the request.
- 38.45.040: employers obligated to meet hiring requirements under this chapter shall comply with reporting requirements deemed necessary by the commissioner of Labor.

38.45.050: This chapter applies to all natural resource projects on state land, and the Dept of Labor will determine the extent of the resident hire preference for each project. Resident preference applies only to work performed directly for an employer.

38.45.060: a) Both DOL and DNR shall adopt regs for this chapter. DOL shall adopt regs prohibiting discrimination against qualified residents for resource development projects on state land. These regs are subject to the Administrative Procedures Act except as provided in (b).

(b) An employer shall judge the work qualifications of an applicant, however an applicant who has been rejected or terminated may, within 30 days, request a hearing before DOL to determine whether the employer violated the provisions of this chapter. DOL shall hold a hearing within 20 days of receipt of the request unless the employee requests a longer period of time. The administrative procedures act does not apply to this section.

(c) DOL may conduct investigations and hearings to determine compliance with this chapter. If they determine an employer has "wilfully" failed to comply, the commissioner may certify that finding to DNR.

38.45.070: PENALTIES: If DOL finds that an employer has rejected or terminated a qualified employee in violation of this chapter, the department may require the employer to pay 3 times the lost wages to the employee and may require additional amounts if the employee's actual expenses incurred exceed the triple wages assessed. Either party may appeal the decision to the superior court.

Upon certification of noncompliance by DOL, DNR may investigate and conduct hearings. If DNR determines "wilful" noncompliance, they may impose the following penalties:

- 1) increase the compensation received by the state thru a lease or agreement by a factor of no more than 10; not to exceed \$100,000
- 2) require all or a portion of the project to cease;
- 3) remove the eligibility for contracting with the state or it's political subdivisions for a period not to exceed three years; or
- 4) require a noncompliance payment in liquidated damages to the State. Damages may be in an amount equal to 7.5 times the amount of required hours not worked times the "going wage" for the job.

38.45.080: In addition to the penalties imposed, DOL and DNR may seek an injunction for noncompliance with this chapter. DNR may seek an injunction to enforce penalties imposed.

38.45.090: Definitions:

- 1) "employer" is a person, other than the state, who is a party to a lease agreement for a resource development project on state land. This definition includes an affiliate, principal, subsidiary, contractor, or subcontractor if the activity is performed on state land.
- 2) "natural resource project on state land" is a contract, lease, unitization agreement, or renegotiation of such leases for the development of oil and gas, timber, and mineral resources on state land.
- 3) "qualified resident" is defined as a resident who has the necessary training or skills to perform the work.
- 4) "resident" is defined as a person who has been in the state for 30 days prior to entering into a contract for employment on a natural resource development project on state land, and who shows the intention to permanently reside in the state.

Section 2) Chapter applies to a lease, a unitization agreement, or a renegotiated lease or agreement for the development of O&G, timber, or minerals, after the effective date of this act. This chapter also applies to the renegotiation of an agreement entered into before the effective date of this act, if the renegotiation results in a major change to the duties of the parties.

Section 3) Immediate effective date.

Introduced: 4/8/85
Referred: Labor and Commerce
Resources

BY JOSEPHSON, KERTTULA
V. FISCHER AND ZHAROFF

1 IN THE SENATE

2

SENATE BILL NO. 271

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act requiring resident hire under certain oil and
7 gas leases and unitization agreements on state land;
8 and providing for an 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 rate of unemployment among residents of the state
20 is one of the highest in the nation;

21

(2) a major factor of increasing importance in the unem-
22 ployment problem is the failure of employers engaged in the explora-
23 tion, development, and production of natural resources on state land,
24 and under leases or other agreements granted or permitted by the
25 state, to employ state residents;

26

(3) whereas at an earlier stage of the state's history it
27 was asserted that high unemployment in the state was due to cultural
28 and geographical migration barriers, the state now has many residents
29 who are qualified, trained, and available for employment in the

1 exploration, development, and production of oil and gas on state land,
2 but who are not presently employed because an increasing amount of the
3 work they are qualified to perform is being performed on state land by
4 nonresidents;

5 (4) the state has made significant investments in training
6 programs and vocational education to help furnish industry with qual-
7 ified residents able to work in the development, exploration, and
8 production of oil and gas products on state land;

9 (5) unless the trend towards hiring nonresidents is re-
10 versed, the state's investment in these training and education pro-
11 grams will be of little avail, the state policy of maximizing benefits
12 from natural resource development will be thwarted, and the state will
13 suffer the burdens wrought by increasing demands for public assistance
14 and other state services from unemployed residents and their families;

15 (6) employment of nonresidents displaces qualified resi-
16 dents from work in the development, exploration and production of oil
17 and gas products on state land and from work in service occupations on
18 state land that directly support the development, exploration, and
19 production activities; therefore, the growing number of nonresidents
20 hired for work on state land, in the development, exploration, and
21 production of state resources, is a peculiar source of the unemploy-
22 ment evil now besetting the state;

23 (7) state policies favoring stable levels of taxation have
24 been predicated upon assurances from the oil and gas industry that
25 state residents would receive employment opportunities in the explora-
26 tion, development, and production of oil and gas from state-owned
27 land, but data show that these assurances, and the expectations they
28 created, are not being fulfilled.

29 Sec. 38.45.030. RESIDENT HIRE. (a) An employer shall meet the

1 resident hiring requirements established by the commissioner of labor
2 under this section on an oil and gas project on state lands that is
3 subject to a hiring preference under AS 38.45.050. An employer may
4 not discriminate against qualified residents in employment on an oil
5 and gas project on state land.

6 (b) The commissioner of labor shall determine the amount of work
7 that must be performed under this chapter by qualified residents on an
8 oil and gas project on state land. In making this determination, the
9 commissioner shall consider the nature of the work, the classification
10 of workers, availability of residents, and the willingness of resi-
11 dents to perform the work. The commissioner shall require an employer
12 to make the maximum feasible effort to hire qualified residents for
13 jobs on state land.

14 (c) In order to create, protect, and preserve the right of qual-
15 ified residents to employment in oil and gas projects on state land
16 the commissioner of natural resources shall incorporate into each
17 lease, unitization agreement, or renegotiation of a lease or agree-
18 ment, provisions requiring compliance with this chapter and authoriz-
19 ing penalties under AS 38.45.070 for failure to comply.

20 (d) The Department of Labor shall maintain a file of the names
21 of qualified residents seeking employment on an oil and gas project on
22 state land. The department shall make the file available to an em-
23 ployer and to an employment or dispatching agency, union, or other
24 similar entity.

25 Sec. 38.45.040. REPORTING PROVISIONS. An employer obligated to
26 meet resident hiring requirements under this chapter shall comply with
27 the reporting provisions that the commissioner of labor determines are
28 reasonably necessary to carry out this chapter.

29 Sec. 38.45.050. APPLICABILITY OF CHAPTER. (a) The Department

- DNR??

1 of Labor shall determine by regulation the minimum monetary value for
2 projects subject to the resident hiring preference under this chapter.
3 In determining the minimum value, the department shall compare the
4 benefit that enures to state residents with administrative and en-
5 forcement costs.

6 (b) An employer shall submit to the department evidence of the
7 monetary value of an oil and gas project on state land. The depart-
8 ment shall determine whether the project is subject to a hiring pref-
9 erence. If the project is subject to a hiring preference, the depart-
10 ment shall determine the extent of the preference under AS 38.45.030.
11 The preference applies only to employment that is performed directly
12 for an employer. The department shall ensure that projects or activ-
13 ities within projects are not artificially divided to prevent coverage
14 under this chapter. If the department finds evidence of artificial
15 division, the burden is on the employer to show that the division is
16 not artificial.

17 Sec. 38.45.060. REGULATIONS AND HEARINGS. (a) The Department
18 of Labor and the Department of Natural Resources shall adopt regula-
19 tions to implement this chapter. The Department of Labor shall adopt
20 regulations prohibiting discrimination against qualified residents in
21 employment on an oil and gas project on state land. Regulations and
22 proceedings under this chapter are subject to the Administrative
23 Procedure Act (AS 44.62) except as provided in (b) of this section.

24 (b) An employer shall determine and judge the work qualifica-
25 tions of applicants for employment. An applicant who has been reject-
26 ed or an employee who has been terminated from employment may request
27 a hearing before the Department of Labor to determine whether the
28 employer violated this chapter in denying the application or terminat-
29 ing the employment. The Department of Labor shall hold a hearing on

1 the question within 10 days of receipt of the request unless the
2 applicant or employee requests a longer period of time.

3 (c) The Department of Labor may conduct investigations and
4 hearings to determine compliance with this chapter. If the commis-
5 sioner of labor finds that an employer has wilfully failed to comply
6 with this chapter, the commissioner may certify the finding to the
7 Department of Natural Resources.

8 Sec. 38.45.070. PENALTIES. (a) If the Department of Labor
9 finds that an employer has rejected a qualified applicant or term-
10 inated a qualified employee from employment in violation of this
11 chapter, the department may require the employer to pay the person
12 three times the amount of wages the person lost and may require addi-
13 tional amounts if the person's actual expenses incurred as a result of
14 the wrongful action exceeded the triple wages assessed. Either party
15 may appeal the department's decision under this section to the su-
16 perior court. The court shall hear the appeal de novo.

17 (b) The Department of Natural Resources, upon certification of
18 noncompliance by the Department of Labor, under AS 38.45.060, may
19 investigate and conduct hearings. If it finds wilful noncompliance,
20 the department may impose on the employer any of the following pen-
21 alties, as appropriate:

22 (1) increase the rent or other forms of compensation re-
23 ceived by the state under the project lease or agreement by a factor
24 of no more than 10; the increase may not exceed \$100,000;

25 (2) require that all or a portion of project operations
26 cease;

27 (3) remove, for an appropriate period of time not to exceed
28 ___ years, the ability of the employer to contract with the state or
29 any of its political subdivisions; or

1 (4) require a noncompliance payment in liquidated damages
2 to the state in an amount equal to seven and one-half times the number
3 of hours required but not worked by qualified residents, times the
4 going wage or salary rate for the particular job or activity involved.

5 Sec. 38.45.080. INJUNCTIVE RELIEF. The Department of Labor or
6 the Department of Natural Resources, in addition to the imposition of
7 penalties under AS 38.45.070, may seek injunctive relief against a
8 person who is not in compliance with this chapter; the Department of
9 Natural Resources may seek injunctive relief to enforce penalties
10 imposed under AS 38.45.070.

11 Sec. 38.45.090. DEFINITIONS. In this chapter

12 (1) "employer" means a person other than the state who is a
13 party to a lease or agreement for an oil and gas project on state land
14 and includes the person's affiliate, principal, subsidiary, contrac-
15 tor, or subcontractor if the activity of the affiliate, principal,
16 subsidiary, contractor, or subcontractor is performed on state land;

17 (2) "oil and gas project on state land" means an oil and
18 gas lease, a unitization agreement, or any renegotiation of a lease or
19 agreement if the state is a party to the lease or agreement and the
20 project is performed in whole or in part on state land;

21 (3) "resident" means a person who

22 (A) except for military service, has been physically
23 present in the state for a period of 30 days immediately before
24 the time the person enters into a contract of employment on an
25 oil and gas project on state land; and

26 (B) shows by all attending circumstances the intention
27 to permanently reside in this state.

28 * Sec. 2. This chapter applies to an oil and gas lease, a unitization
29 agreement, or a renegotiation of a lease or agreement entered into on or

1 after the effective date of this Act.

2 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-

3 10.070(c).

Chairman's Information:

- 1) CSSB 271(L&C) "An act requiring resident hire on certain natural resource projects on state land; and providing for an effective date."
 - a) Introduced: Sen Josephson, Kerttula, V Fischer, Zharoff
 - b) Co-Sponsors:
- 2) INTENT: This legislation establishes a resident hire preference for natural resource development projects on state land. The bill outlines the responsibilities of the Dept of Labor and DNR regarding resident hire, and establishes penalties to be imposed upon employers who are in noncompliance with this Chapter.

FISCAL NOTE: Fiscal Note being prepared by the Dept of Labor;

NOTE: Need to move for the adoption of L&C CS and title change

- 3) ADDITIONAL REFERRALS: Resources and Finance
- 4) PUBLIC HEARINGS:
 - a) Sponsor:
 - b) Public witnesses:
- 5) BILL ACTION:
 - a) Hold in committee?
 - b) Assign to sub committee for further review?
 - c) Move from Committee?
 - d) close public hearings?
- 6) COMMITTEE ACTION:
 - a) amendments?
 - b) CS adoption?

Cramer
4/27/85 ✓

Original sponsors: Josephson, Kerrettula,
V.Fischer and Zharoff

1
2 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

3 CS FOR SENATE BILL NO. 271 (L&C)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

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

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

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

12 CHAPTER 45. RESIDENT EMPLOYMENT PREFERENCE UNDER STATE LEASES.

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

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

20 (1) because of its unique climate and its distance from the
21 contiguous states, the state has historically suffered from unique
22 social, seasonal, geographic, and economic conditions that result in
23 an unstable economy;

24 (2) the unstable economy is a hardship on the residents of
25 the state and is aggravated by the large numbers of seasonal and
26 transient nonresident workers;

27 (3) the rate of unemployment among residents of the state
28 is one of the highest in the nation;

29 (4) the state has one of the highest ratios of nonresident
to resident workers in the nation;

1
2 (5) the state has a compelling interest in reducing t
3 level of unemployment among its residents;

4 (6) a major factor of increasing importance in the une
5 mployment problem is the failure of employers engaged in the explor
6 tion, development, and production of natural resources on state lan
7 and under leases or other agreements granted or permitted by t
8 state, to employ state residents;

9 (7) whereas at an earlier stage of the state's history
10 was asserted that high unemployment in the state was due to cultur
11 and geographical migration barriers, the state now has many residen
12 who are qualified, trained, and available for employment in the expl
13 ration, development, production, and extraction of natural resourc
14 on state land, but who are not presently employed because an increa
15 sing amount of the work they are qualified to perform is being pe
16 formed on state land by nonresidents;

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

21 (9) unless the trend towards hiring nonresidents is r
22 versed, the state's investment in these training and education pr
23 grams will be of little avail, the state policy of maximizing benefi
24 from natural resource development will be thwarted, and the state wi
25 suffer the burdens wrought by increasing demands for public assistan
26 and other state services from unemployed residents and their familie

27 (10) employment of nonresidents displaces qualified res
28 dents from work in the development, exploration, production, an
29 extraction of natural resource products on state land and from work
service occupations on state land that directly support the develop

1
2 ment, exploration, and production activities; therefore, the growi
3 number of nonresidents hired for work on state land, in the develo
4 ment, exploration, production, and extraction of state resources, is
5 peculiar source of the unemployment evil now besetting the state;

6 (11) state policies favoring stable levels of taxation ha
7 been predicated upon assurances from the natural resource industri
8 that state residents would receive employment opportunities in th
9 exploration, development, and production of natural resources fro
10 state-owned land, but data show that these assurances, and the expec
11 tations they created, are not being fulfilled.

12 Sec. 38.45.030. RESIDENT HIRE REQUIREMENTS. (a) An employe
13 shall meet the resident hiring requirements established by the commis
14 sioner of labor under this section on a natural resource project o
15 state land that is subject to a hiring preference under AS 38.45.050.
16 An employer may not discriminate against qualified residents in em
17 ployment on a natural resource project on state land.

18 (b) The commissioner of labor shall determine the amount of wor
19 that must be performed under this chapter by qualified residents on
20 natural resource project on state land. In making this determination
21 the commissioner shall consider the nature of the work, the classi
22 fication of workers, availability of residents, and the willingness o
23 residents to perform the work. The commissioner shall require a
24 employer to make the maximum feasible effort to hire qualified resi
25 dents for jobs on state land.

26 (c) In order to create, protect, and preserve the right of qual
27 ified residents to employment in natural resource projects on stat
28 land, the commissioner of natural resources shall incorporate int
29 each lease, unitization agreement, or renegotiation of a lease o
agreement, provisions requiring compliance with this chapter, regula

1
2 tions adopted under this chapter, and all later amendments to th
3 chapter or the regulations, and authorizing penalties under AS 38.45
4 070 for failure to comply. The commissioner shall incorporate in
5 each lease, agreement, or renegotiation a requirement that the less
6 include a provision requiring compliance with this chapter, lat
7 amendments of this chapter, regulations adopted under this chapter a
8 authorizing penalties under AS 38.45.070 in a contract under the lea
9 or agreement with contractors or subcontractors who will be operati
10 on state land.

11 (d) An employer subject to resident hiring requirements und
12 this chapter may request the Department of Labor to assist in loca
13 ing qualified available resident employees. After receiving a reques
14 for assistance, the department shall refer qualified availabl
15 residents to the employer to fill the employer's hiring needs. If th
16 department is unable to refer a sufficient number of residents, it ma
17 approve the hiring of nonresidents for the balance of the request.

18 Sec. 38.45.040. REPORTING PROVISIONS. An employer obligated t
19 meet resident hiring requirements under this chapter shall comply wit
20 the reporting provisions that the commissioner of labor determines ar
21 reasonably necessary to carry out this chapter.

22 Sec. 38.45.050. APPLICABILITY OF CHAPTER. This chapter applie
23 to all natural resource projects on state land. The Department c
24 Labor shall determine the extent of the resident hiring preference fo
25 each project under AS 38.45.030. The preference applies only t
26 employment that is performed directly for an employer.

27 Sec. 38.45.060. REGULATIONS AND HEARINGS. (a) The Departmen
28 of Labor and the Department of Natural Resources shall adopt regula
29 tions to implement this chapter. The Department of Labor shall adop
regulations prohibiting discrimination against qualified residents in

1
2 employment on a natural resource project on state land. Regulation
3 and proceedings under this chapter are subject to the Administrative
4 Procedure Act (AS 44.62) except as provided in (b) of this section.

5 (b) An employer shall determine and judge the work qualific
6 tions of applicants for employment. An applicant who has been reject
7 ed or an employee who has been terminated from employment may, withi
8 30 days after the rejection or termination, request a hearing before
9 the Department of Labor to determine whether the employer violate
10 this chapter in denying the application or terminating the employment
11 The Department of Labor shall hold a hearing on the question within 2
12 days of receipt of the request unless the applicant or employee re
13 quests a longer period of time.

14 (c) The Department of Labor may conduct investigations an
15 hearings to determine compliance with this chapter. If the commis
16 sioner of labor finds that an employer has wilfully failed to compl
17 with this chapter, the commissioner may certify the finding to th
18 Department of Natural Resources.

19 Sec. 38.45.070. PENALTIES. (a) If the Department of Labo
20 finds that an employer has rejected a qualified applicant or term
21 inated a qualified employee from employment in violation of thi
22 chapter, the department may require the employer to pay the perso
23 three times the amount of wages the person lost and may require addi
24 tional amounts if the person's actual expenses incurred as a result o
25 the wrongful action exceeded the triple wages assessed. Either part
26 may appeal the department's decision under this section to the su
27 perior court. The court may hear the appeal de novo.

28 (b) The Department of Natural Resources, upon certification o
29 noncompliance by the Department of Labor under AS 38.45.060, may
investigate and conduct hearings. If it finds wilful noncompliance

1
2 the department may impose on the employer any of the following pen
3 alties:

4 (1) increase the rent or other forms of compensation r
5 ceived by the state under the project lease or agreement by a fact
6 of no more than 10; the increase may not exceed \$100,000;

7 (2) require that all or a portion of project operatio
8 cease;

9 (3) remove, for an appropriate period of time not to exce
10 three years, the eligibility of the employer to contract with t
11 state or any of its political subdivisions; or

12 (4) require a noncompliance payment in liquidated damag
13 to the state in an amount equal to seven and one-half times the numb
14 of hours required but not worked by qualified residents multiplied
15 the going wage or salary rate for the particular job or activi
16 involved.

17 (c) The commissioner may impose the penalties under (b)(1) a
18 (2) of this section on a lessee only if the lessee itself has fail
19 to comply with this chapter or incorporate into the contract with t
20 violator a provision requiring compliance with this chapter.

21 Sec. 38.45.080. INJUNCTIVE RELIEF. The Department of Labor
22 the Department of Natural Resources, in addition to the imposition
23 penalties under AS 38.45.070, may seek injunctive relief against
24 person who is not in compliance with this chapter; the Department
25 Natural Resources may seek injunctive relief to enforce penalti
26 imposed under AS 38.45.070.

27 Sec. 38.45.090. DEFINITIONS. In this chapter

28 (1) "employer" means a person other than the state who is
29 party to a lease or agreement for a natural resource project on sta
land and includes the person's affiliate, principal, subsidiary

1
2 contractor, or subcontractor if the activity of the affiliate, principal,
3 subsidiary, contractor, or subcontractor is performed on state
4 land;

5 (2) "natural resource project on state land" means a contract,
6 lease, unitization agreement, or a renegotiation of a contract,
7 lease, or agreement for exploration, development, extraction or production
8 of oil and gas, mineral, or timber resources if the state is a
9 party to the contract, lease or agreement and the project is performed
10 in whole or in part on state land;

11 (3) "qualified resident" means a resident who possesses the
12 requisite education, training, skills, or experience to perform the
13 work;

14 (4) "resident" means a person who

15 (A) except for military service, has been physically
16 present in the state for a period of 30 days immediately before
17 the time the person enters into a contract of employment on
18 a natural resource project on state land; and

19 (B) shows by all attending circumstances the intention
20 to permanently reside in this state.

21 * Sec. 2. This chapter applies to a lease, unitization agreement, contract,
22 contract for the development of oil and gas, or mineral or timber resource
23 entered into after the effective date of this Act and to a renegotiation of
24 the lease, agreement or contract. This chapter applies to the renegotiation
25 after the effective date of this Act of a lease, agreement, or contract
26 entered into before the effective date of this Act if the renegotiation
27 results in a major change to the duties of a party.

28 * Sec. 3. This Act takes effect immediately in accordance with AS 01.
29 10.070(c).



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James A. Smith
Signature of Camera Operator

11/24/89
Date

S B

2 8 6

health association of alaska

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790
REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

Chairman of the Board
Michael Herring
South Peninsula Hospital
Homer

Chairman-Elect
R. Dale Reynolds
Charter North Hospital
Anchorage

Immediate Past Chairman
Edward Zeine
Cordova Community
Hospital
Cordova

Secretary/Treasurer
Michael Lockwood
Central Peninsula
General Hospital
Soldotna

Delegate to the American
Hospital Association
Al M. Camosso
Providence Hospital
Anchorage

Alternate Delegate to the
American Hospital Assoc.
Sister Barbara Haase
Ketchikan General Hospital
Ketchikan

Delegate to the American
Health Care Association
Tom Bolling
Our Lady of Compassion
Care Center
Anchorage

Alternate Delegate to the
American Health Care
Association
Ronald Olthoff
Denali Center
Fairbanks

Delegate to the Association
of Western Hospitals
C. Keith Campbell
Seward General Hospital
Seward

Alternate Delegate to the
Association of Western
Hospitals
Jane Sabes
Norton Sound Regional
Hospital
Nome

Delegate to the National
Congress of Hospital
Governing Boards
Maxine Robertson
Ketchikan General Hospital
Ketchikan

Alternate Delegate to the
National Congress of
Hospital Governing
Boards
Sharon Jean
Central Peninsula
General Hospital
Soldotna

Physician, Member of
the Board
Morris Horning, M.D.
Anchorage

President
Dennis DeWitt
Juneau

April 8, 1986

The Honorable Fred Zharoff, Chairman
Senate Labor and Commerce Committee
Alaska State Legislature
Juneau, Alaska 99811

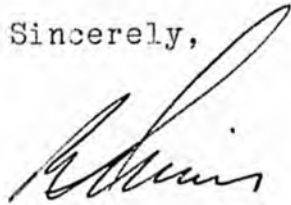
Dear Senator Zharoff, *Fred*

re: SSSB 286

The Health Association of Alaska wishes to take this opportunity to suggest that Sponsor Substitute for Senate Bill 286 by Zharoff by request be amended to permit hospitals to use the fourteen day work week as is provided in the federal Fair Labor Standards Act. I have attached a copy of Section 7(j) of that Act which sets out the federal language.

Thank you for your assistance in this matter.

Sincerely,



Dennis L. DeWitt
Executive Director

FORMERLY

alaska
state
hospital
association

Fair Labor Standards Act As Amended

Act of June 25, 1938 (P.L. 75-718) effective October 24, 1938, as amended by P.L. 81-393, effective January 25, 1950, by P.L. 84-381, by P.L. 85-231, effective November 28, 1957; by P.L. 85-750, approved August 25, 1958; by P.L. 85-791, approved August 28, 1958; by P.L. 87-30, effective September 3, 1961; by the Equal Pay Act of 1963 (P.L. 83-38), effective June 11, 1964; by P.L. 89-601, effective February 1, 1967; by P.L. 89-670, effective October 15, 1966; by P.L. 92-318, effective June 23, 1972; by P.L. 93-259, effective May 1, 1974; by P.L. 95-151, effective November 1, 1977. Annotations in brackets show changes made by amendments.

TABLE OF CONTENTS

Section

1. Title.
2. Finding and declaration of policy.
3. Definitions.
4. Administrator.
5. Industry committees for Puerto Rico and the Virgin Islands.
6. Minimum wages.
7. Maximum hours.
8. Wage orders.
9. Attendance of witnesses.
10. Court review.
11. Investigations, inspections, and records.
12. Child labor provisions.
13. Exemptions.
14. Learners, apprentices, and handicapped workers.
15. Prohibited acts.
16. Penalties.
17. Injunction proceedings.
18. Relations to other laws.
19. Separability of provisions.

TITLE

SEC. 1. That this Act may be cited as the "Fair Labor Standards Act of 1938."

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes, commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in

commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce. That Congress further finds that the employment of persons in domestic service in households affects commerce.

(b) It is hereby declared to be the policy of this Act, through the exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

(b) "Commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(c) "State" means any State of the United States or the District of Columbia or any Territory or possession of the United States.

(d) "Employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency,

tract with the United States or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965 (41 U.S.C. 351-357) or to whom subsection (a)(1) of this section is not applicable, wages at rates not less than the rates provided for in subsection (b) of this section.

(2) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof) and the provisions of the Service Contract Act of 1965, every employer in an establishment providing linen supply services to the United States under a contract with the United States or any subcontract thereunder shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (b), except that if more than 50 per centum of the gross annual dollar volume of sales made or business done by such establishment is derived from providing such linen supply services under any such contracts or subcontracts, such employer shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (a)(1) of this section.

(f) Any employee— (1) who in any workweek is employed in domestic service in a household shall be paid wages at a rate not less than the wage rate in effect under section 6(b) unless such employee's compensation for such service would not because of section 209(g) of the Social Security Act constitute wages for the purposes of title II of such Act, or

(2) who in any workweek—

(A) is employed in domestic service in one or more households, and

(B) is so employed for more than 8 hours in the aggregate, shall be paid wages for such employment in such workweek at a rate not less than the wage rate in effect under section 6(b).

[1974 Amendments: Sec. 6 was amended to add subsection (f).]

MAXIMUM HOURS

SEC. 7. (a)(1) Except as otherwise provided in this section, no employer shall

employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

(2) No employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this subsection by the amendments made to this Act by the Fair Labor Standards Amendments of 1966—

(A) for a workweek longer than forty-four hours during the first year from the effective date of the Fair Labor Standards Amendments of 1966,

(B) for a workweek longer than forty-two hours during the second year from such date, or

(C) for a workweek longer than forty hours after the expiration of the second year from such date, unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

(b) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of that specified in such subsection without paying the compensation for overtime employment prescribed therein if such employee is so employed—

(1) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand and forty hours during any period of twenty-six consecutive weeks; or

applicable to the same work when performed during nonovertime hours; or

(2) in the case of an employee performing two or more kinds of work for which different hourly or piece rates have been established, is computed at rates not less than one and one-half times such bona fide rates applicable to the same work when performed during nonovertime hours; or

(3) is computed at a rate not less than one and one-half times the rate established by such agreement or understanding as the basic rate to be used in computing overtime compensation thereunder: Provided, That the rate so established shall be authorized by regulation by the Secretary of Labor as being substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time;

and if (1) the employee's average hourly earnings for the workweek exclusive of payments described in paragraphs (1) through (7) of subsection (e) are not less than the minimum hourly rate required by applicable law, and (ii) extra overtime compensation is properly computed and paid on other forms of additional pay required to be included in computing the regular rate.

(h) Extra compensation paid as described in paragraphs (5), (6), and (7) of subsection (e) shall be creditable toward overtime compensation payable pursuant to this section.

(i) No employer shall be deemed to have violated subsection (a) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if (1) the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable to him under section 6, and (2) more than half his compensation for a representative period (not less than one month) represents commissions on goods or services. In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be deemed com-

missions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.

(j) No employer engaged in the operation of a hospital or an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises shall be deemed to have violated subsection (a) if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of fourteen consecutive days is accepted in lieu of the workweek of seven consecutive days for purposes of overtime computation and if, for his employment in excess of eight hours in any workday and in excess of eighty hours in such fourteen-day period, the employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed.

[1974 Amendments: Sec. 7(j) was amended to add in the second line the phrase beginning "or an establishment" and ending "on the premises."]

(k) No public agency shall be deemed to have violated subsection (a) with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if—

(1) in a work period of 28 consecutive days the employee receives for tours of duty which in the aggregate exceed 240 hours; [Effective January 1, 1976, 232 hours; effective January 1, 1977, 216 hours; effective January 1, 1978, "exceed 216 hours" is changed to "exceed the lesser of (A) 216 hours or (B) the average number of hours (as determined by the Secretary pursuant to section 6(c)(3) of the Fair Labor Standards Amendments of 1974 [See note: Section 6(c)(3) which authorized the Secretary of Labor to conduct a study of hours of work of certain law enforcement personnel of public agencies was deleted as a result of the 1977 amendments.] in tours of duty of employees engaged in such activities in work periods of 28 consecutive days in calendar year 1975" or

14 DAY
WORKWEEK

MEMORANDUM

State of Alaska

TO: Jim Robison, Commissioner
Department of Labor

DATE: March 15, 1985

Bob Bacolas, Director
Labor Standards and Safety

FILE NO:

TELEPHONE NO: 465-4842

FROM: James Sanwick
Wage and Hour Investigator

SUBJECT: Fluctuating Work Week

For the month's work listed on page two under each section would result in the employee earning \$2,000.00 total under Section (2), \$2,400.00 under Section (1) and \$2,450.00 under normal pay calculations.

Normal Pay

140 hours straight time at \$10.00 per hour	= \$1,400.00
70 hours overtime rate at \$15.00 per hour	= <u>\$1,050.00</u>
Total	\$2,450.00

Section (1) Pay Plan

150 hours straight time at \$10.00 per hour	= \$1,500.00
20 hours overtime at \$15.00 per hour	= \$ <u>900.00</u>
Total	\$2,400.00

Section (2) Pay Plan

4 weeks fixed rate at \$500.00 per week	= <u>\$2,000.00</u>
Total	\$2,000.00

BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the payment of overtime and providing for an effective date."

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

- *Section 1. AS 23.10.060(17) is repealed.
- *Section 2. AS 23.10.060(18) is repealed.
- *Section 3. AS 23.10.060 is amended by adding two new subsections to read:

Sec. 23.10.060(b). IRREGULAR AND FLEXIBLE WORK HOUR PLANS.

The following pay plans which provide fixed pay rates for irregular or flexible work hours up to a predetermined maximum are permissible under this chapter, provided the department has reviewed the pay plan and, in writing, has approved the plan as being in compliance with the appropriate subsection herein with any subsequent changes in the pay plan, as requested by the employer also being subject to approval by the department. In addition, the department shall periodically review all plans to ensure their continued compliance with the appropriate subsection herein. Such approval by the department shall be considered an irrebuttable presumption that the plan meets the requirements of this statute.

It is further provided that for plans under subsections 2 and 3 herein, the nature of the employer's business and the duties of the employee necessitate irregular hours of work with, for plans under subsection 2 herein, neither the employer nor the employee being able to control or anticipate with absolute certainty the number of hours to be worked.

(1) Work performed by an employee under a flexible work hour plan, either through agreement as part of a collective bargaining contract, or through signed written agreement pursuant to AS 23.05.160, which provides for a 40 hour workweek and not more than a 10 hour work day; for work over 40 hours per week or 10 hours a day under a flexible work hour plan compensation at the rate of one and one-half times the regular rate of pay shall be paid for overtime;

(2) Work performed by an employee under an irregular work hour plan, either through agreement as part of a collective bargaining contract or through signed written agreement pursuant to AS 23.05.160, which provides a fixed weekly wage for irregular weekly hours not to exceed 60 hours in a workweek; for work over 60 hours per week under a irregular work hour plan compensation at the rate of one and one-half times the regular rate of pay shall be paid for overtime;

(3) Work performed by an employee under a flexible workweek plan authorized under 29 CFR 778.114, either through agreement as part of a collective bargaining contract or through signed written agreement pursuant to AS 23.05.160; hours allowed under this plan shall not exceed 60 hours in a workweek; for work over 60 hours per week under a flexible workweek plan

~~compensation at the rate of one and one-half times the effective hourly rate of pay shall be paid for overtime. The effective hourly rate of pay shall be determined based on the actual hours worked in a workweek up to 60 hours.~~

(4) The commissioner shall promulgate rules and regulations which are necessary for the administration of this subsection.

Sec. 23.10.060(c) GOOD FAITH EXCEPTION. In any action commenced prior to or on or after the date of the enactment of this act to recover unpaid minimum wages, unpaid overtime compensation, or liquidated damages, under the Alaska Wage & Hour Act, if the employer shows to the satisfaction of the court that the act or omission giving rise to such action was in good faith and that he had reasonable grounds for such act or omission, the court may, in its sound discretion, award no liquidated damages or award any amount thereof not to exceed the amount specified in AS 23.10.110 provided, however, that this Section shall not apply to cases where litigation has commenced on or before January 1, 1985.

*Section 4. This act takes effect immediately in accordance with AS 01.10.070(c).

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
WORK AS IT WOULD APPEAR UNDER NORMAL RULES						1 ^{152/213}
2 ^{153/212} ST	3 ^{154/211} 8	4 ^{155/210} 8	5 ^{156/209}	6 ^{157/208} 6	7 ^{158/207}	8 ^{159/206} 4
OT	2	2				4
9 ^{160/205} ST	10 ^{161/204} 8	11 ^{162/203} 8	12 ^{163/202} 8	13 ^{164/201} 8	14 ^{165/200} Flag Day	15 ^{166/199} 6
OT	8	2	4	8		20
16 ^{167/198} Father's Day ST	17 ^{168/197} 8	18 ^{169/196} 8	19 ^{170/195} 8	20 ^{171/194} 8	21 ^{172/193}	22 ^{173/192} 6
OT	8	2	4	8		20
23 ^{174/191} ST	24 ^{175/190} 8	25 ^{176/189} 8	26 ^{177/188} 8	27 ^{178/187} 8	28 ^{179/186}	29 ^{180/185} 6
30 ^{181/184} OT	8	2	4	8		20

Total
26

38

38

38

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
2 153/212 ST 10	3 154/211 10	4 155/210 10	5 156/209 6	6 157/208 6	7 158/207 4	8 159/206 30 Tom
9 160/205 ST 10	10 161/204 10	11 162/203 10	12 163/202 10	13 164/201 10	14 165/200 Flag Day 10	15 166/199 40
16 167/198 ST 10 Father's Day	17 168/197 10	18 169/196 10	19 170/195 10	20 171/194 10	21 172/193 6	22 173/192 40
23 174/191 ST 10	24 175/190 6	25 176/189 6	26 177/188 2	27 178/187 6	28 179/186 6	29 180/185 20
30 181/184 ST 10	6	6	2	6	6	20

Work as I would appear under section one

152/213

Sunday Monday Tuesday Wednesday Thursday Friday Saturday

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LABOR

P.O. BOX 1149
JUNEAU, ALASKA 99802
PHONE: (907) 465-2700

OFFICE OF THE COMMISSIONER

March 19, 1985

MAR 19 1985

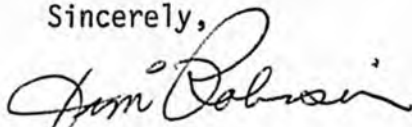
The Honorable Fred Zharoff
Alaska State Senate
Pouch V
State Capitol
Juneau, AK 99811

Dear Senator Zharoff:

The following individuals are the members of the Ad hoc committee on the fluctuating work week legislation:

Mano Frey, President, AFL, CIO
Dixie Hudish, IBEW Local 1547
Richard Peluso, President, Western Alaska Bldg. Trades
Jim Pentlarge, Attorney
Mike Klein, COMINCO
Jack Thompson, Air Van Lines
Pete Nelson, Alaska Miners Association
Joe Crane, Anaconda
Ken Calhoon, Anchorage Chamber of Commerce
Chuck Becker, Brown & Root
Charles Johnson, Dresser Atlas
Milton Bird, Frontier Co.
Jerry Sheehan, Gearhart Co.
Paul Preston, Haliburton
John Hallahan, U.S. Borax
George Easley, Easley Co.

Sincerely,



Jim Robison
Commissioner

STATE OF ALASKA

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

P.O. BOX 1149
JUNEAU, ALASKA 99802
PHONE: (907) 465-2700

FEB 25 1985

February 22, 1985

The Honorable Fred Zharoff
Alaska State Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

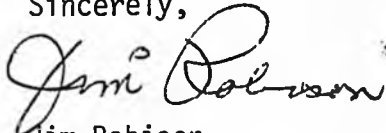
Dear Senator Zharoff:

Enclosed is a copy of the fluxuating work week legislation that I spoke about at the Department of Labor overview. I have been asked by Jack Thompson to provide you with a copy.

I have spoken to both Mano Frey, President of AFL-CIO, and Mike Klein, Chairman for the employers; and this is acceptable to both parties.

If you have questions, please feel free to call.

Sincerely,



Jim Robison
Commissioner

Enclosure

RECEIVED

FEB 12 1985

OFFICE OF THE COMMISSIONER



M J Klein
Vice President
Human Resources & Administration

Mr. Mano Frey
Business Manager
Laborers' Union
2501 Commercial Drive
Anchorage, Alaska 99501

Comm.	<input checked="" type="checkbox"/>
Deputy	<input checked="" type="checkbox"/>
Sp. Asst.	<input type="checkbox"/>
Info. Off.	<input type="checkbox"/>
Adm. Asst.	<input type="checkbox"/>
Int. Aud.	<input type="checkbox"/>
Med. Dir.	<input type="checkbox"/>
To:	<input type="checkbox"/>
cc:	<input type="checkbox"/>
cc:	<input type="checkbox"/>
cc:	<input type="checkbox"/>

February 8, 1985

Dear Mano:

Enclosed is a final copy of the "Payment of Overtime" bill. I have included the changes discussed at our February 7 meeting as well as deleting the reference to 29 CFR in Subsection 3 at the bottom of page 2. This latter deletion was at the request of Commissioner Robison.

In my discussion with the Commissioner, he suggested that the bill be introduced simultaneously by the Labor and Commerce Committees. Apparently he has discussed this approach with both Committee Chairmen (Mike Navarre in the House, and Fred Zharoff in the Senate). With regard to introduction of the bill, I have asked Jack Thompson to get in touch with you to coordinate its introduction as soon as possible.

If you have any questions, don't hesitate to give me a call.

Yours truly,

MJK:pc

Enclosure

cc: Commissioner Jim Robison w/Atch
Mr. Jack Thompson w/Atch
Mr. Jack Sheehan w/Atch
Mr. Paul Preston w/Atch

BILL NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE - FIRST SESSION
A BILL

For an Act entitled: "An Act relating to the payment of overtime
and providing for an effective date."

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

- *Section 1. AS 23.10.060(17) is repealed.
- *Section 2. AS 23.10.060(18) is repealed.
- *Section 3. AS 23.10.060 is amended by adding two new
subsections to read:

Sec. 23.10.060(b). IRREGULAR AND FLEXIBLE WORK HOUR PLANS.

The following pay plans which provide fixed pay rates for irregular or flexible work hours up to a predetermined maximum are permissible under this chapter, if the department has reviewed the pay plan and, in writing, has approved the plan as being in compliance with the appropriate subsection herein. Any subsequent changes in the pay plan must be approved by the department. Failure to obtain prior approval of the plan or subsequent changes renders the plan unlawful until written approval is obtained from the department.

February 8, 1985

It is further provided that for plans under subsections 2 and 3 herein, the nature of the employer's business and the duties of the employee necessitate irregular hours of work with, for plans under subsection 2 herein, neither the employer nor the employee being able to control or anticipate with absolute certainty the number of hours to be worked.

(1) Work performed by an employee under a flexible work hour plan, either through agreement as part of a collective bargaining contract, or through signed written agreement pursuant to AS 23.05.160, which provides for a 40 hour workweek and not more than a 10 hour work day; for work over 40 hours per week or 10 hours a day under a flexible work hour plan compensation at the rate of one and one-half times the regular rate of pay shall be paid for overtime;

(2) Work performed by an employee under an irregular work hour plan, either through agreement as part of a collective bargaining contract or through signed written agreement pursuant to AS 23.05.160, which provides a fixed weekly wage for irregular weekly hours not to exceed 60 hours in a workweek; for work over 60 hours per week under a irregular work hour plan compensation at the rate of one and one-half times the regular rate of pay shall be paid for overtime;

(3) Work performed by an employee under a flexible workweek plan, either through agreement as part of a collective bargaining contract or through signed written agreement pursuant to AS 23.05.160; hours allowed under this plan shall not exceed 60 hours in a workweek; for work over 60 hours per week under a flexible workweek plan compensation at the rate of

one and one-half times the effective hourly rate of pay shall be paid for overtime. The effective hourly rate of pay shall be determined based on the actual hours worked in a workweek up to 60 hours.

(4) The commissioner shall promulgate rules and regulations which are necessary for the administration of this subsection.

Sec. 23.10.060(c) GOOD FAITH EXCEPTION. In any action commenced after the date of the enactment of this act to recover unpaid minimum wages, unpaid overtime compensation, or liquidated damages, under the Alaska Wage & Hour Act, if the employer shows to the satisfaction of the court that the act or omission giving rise to such action was in good faith and that he had reasonable grounds for such act or omission, the court may, in its sound discretion, award no liquidated damages or award any amount thereof not to exceed the amount specified in AS 23.10.110.

*Section 4. This act takes effect immediately in accordance with AS 01.10.070(c).

Mike Klee
Manya Frye

Dear Senator Zharoff:

Dear Representative Navarre:

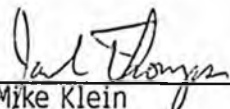
For the past several months, a team of representatives of the support industry in Alaska and a team of representatives of labor in the state have been meeting to develop acceptable language of an amendment to Alaska labor law. The genesis of these teams stems from a keen interest in the issue by Governor Bill Sheffield.

The mutually agreed to language of the proposed amendment is enclosed with this letter.

We are convinced that the benefits accruing to industry as a result of enactment of this amendment are reasonable and substantial and that the interests of the Alaskan worker are well protected.

We the undersigned, therefore, respectfully request your sponsorship of the amendment, in your capacity as Chairman of the Labor and Commerce Committee, and your active intervention in pursuing enactment of the bill. Should you have any questions on the issues, please feel free to call on any one of us.

Sincerely,

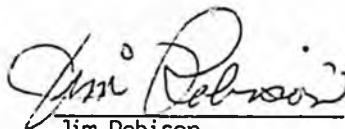


Mike Klein
Chairman of
the Industry
Team and Vice
President of
Cominco America

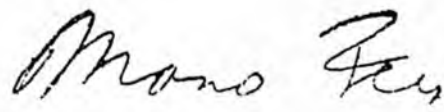
Jack Thompson
Vice President
Air Van Lines

Paul Preston
Alaska Manager
Halliburton Svcs.

Jerry Sheehan
Alaska Manager
Gearhart Industries



Jim Robison
Commissioner
Alaska State
Department of
Labor



Mano Frey
Chairman of
the Labor Team
and President of
the Alaska State
AFL/CIO

Rich Peluso
President of the
Southcentral Alaska
Central Labor Council

Dixie Lee Hudish
Representative
International Brotherhood
of Electrical Workers



Cominco American

J Klein
President
Human Resources & Administration

Commissioner Jim Robison
Alaska Department of Labor
Box 1149
Juneau, Alaska 99802

June 6, 1985

Dear Jim:

Thank you for forwarding the copy of Senate Bill 286 pertaining to the payment of overtime and good faith exception.

In reviewing the proposed bill, I note that the phrase "that will average 40 hours per week over an extended length of employment" was added in two places in the bill (the first being on page 2, subsection (a), lines 7 and 8; and the second addition being in subsection (3), lines 23 and 24). Inasmuch as this stipulation was not included in the draft bill agreed to by Labor and Management, and is not required by Federal Wage & Hour regulations, I am somewhat curious as to why it was included in the final version.

Any information you can provide regarding the additional language will be greatly appreciated.

Yours truly,



BJK:pc

cc: Hans Frey
Jack Thompson

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 22, 1985

SUBJECT: Proposed legislation relating to payment of
overtime (Work Order No. 14-0940)

TO: Senator Fred Zharoff

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have asked for an analysis of the language proposed as AS 23.10.060(c) establishing a good faith exception to imposition of penalties for an employer's failure to pay minimum wages, overtime compensation or liquidated damages.

The language proposed in the draft is taken from 29 U.S.C. 260 with little change. It permits the court to refuse to impose liquidated damages or to impose a reduced amount of damages on an employer who failed to pay the full amount of wages, overtime or liquidated damages required by the Alaska Wage and Hour Act if the employer satisfies the court that the failure was in good faith and that the employer had reasonable grounds for paying the amount paid. There is a substantial body of federal case law interpreting the language of this section.

If you wish to ensure that amending current law by addition this section does not affect cases already pending or claims that arise from employment already performed, then you may wish to include in the bill a section that clearly limits the application of the bill to services performed after the effective date of the Act.

If I may be of further assistance, please advise.

TBC: csh
c3/061

Beehive

Section (3). A flexible work week plan that provides a fixed weekly wage for no more than 60 hours per workweek and that requires the employer to pay compensation at a rate of one and one half times the effective hourly rate of pay for hours in excess of 40 hours per week. The effective hourly rate of pay is determined by dividing the fixed weekly wage by the actual hours worked in a workweek, not to exceed 60 hours. Hours in excess of 60 hours per workweek are paid at one and one half times the effective rate of pay for a 60 hours workweek at the fixed weekly wage. The Department may not approve a plan under this section unless it finds the nature of the employers business and the duties of the employer require irregular hours of work. An example, follows your effective hourly rate will be \$15. However, you will be paid a guaranteed weekly salary of \$600 regardless of the number of hours worked in a week (up to 60 hours per week). For any hours worked in excess of 40 but less than 60, you will receive:

<u>1/2 Rate</u>	<u>Regular Rate</u>	<u>Hours Worked</u>	<u>Salary Guarantee</u>	<u>Overtime Pay</u>	<u>Total Weekly Earnings</u>
0	15.00	1-40-----	600	0	600
7.32	14.63	41-----	600	7.32	607.32
7.14	14.28	42-----	600	14.28	614.28
6.00	12.00	50-----	600	60.00	660.00
5.45	10.91	55-----	600	82.00	682.75
5.00	10.00	60-----	600	100.00	700.00

For any overtime in excess of 60 in a workweek, you will receive \$15 per hour (your effective hourly rate of \$10 times 1.5 for overtime) with this amount added to the \$700 paid for the first 60 hours.

$$600 \div 42 = 14.28 \text{ ST}$$

$$14.28 \div \frac{1}{2} = 7.14 \text{ OT}$$

$$40 \text{ hrs} \times 14.28 = 571.20$$

$$2 \text{ hrs} \times \$14.28 + 7.14 = 42.84$$

$$\text{TOTAL } 614.04$$

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 17, 1985

SUBJECT: Payment of overtime
(Work Order No. 14-0993)

TO: Senator Fred Zharoff

FROM: Teresa B. Cramer *JBC*
Legislative Counsel

You have asked for a sectional analysis of Work Order 14-0993.

Section 1 exempts pay plans approved under AS 23.10.062, enacted by section 2 of the bill, from the requirement for payment of overtime based on an eight hour workday and 40 hour work week.

Section 2, subsection (a), permits the Department of Labor to approve flexible work hour, irregular work hour, and flexible work week plans and invalidates a plan or amendment to a plan until the department approves it in writing.

Subsection (b) permits the department to approve plans if they are entered into either under a collective bargaining agreement or when the employee is hired and lists the requirements for the payment of overtime under each type of plan.

Subsection (c) requires an employer and employee to sign a written agreement at the time of hiring concerning payment under the work plans available in the section and requires advance agreement to changes in the plan.

Section 3 permits an employer to defend against a claim for unpaid minimum wages, overtime compensation, or liquidated damages under the Alaska Wage and Hour Act by showing that the employer acted in good faith and upon reasonable grounds. The court may either reduce an award or refuse to award liquidated damages.

Senator Fred Zharoff
April 17, 1985
Page 2

Section 4 limits application of the bill to work performed after the effective date.

Section 5 repeals the existing exemption for flexible work hour plans made under a collective bargaining and by agreement between the employer and the employee.

Section 6 is an immediate effective date clause.

If I may be of further assistance, please advise.

TBC:ojb
J14/006



THE ALLIANCE

P.O. Box 100100 / Anchorage, Alaska 99510 / (907) 562-0100

William Webb — President
Arctic Hosts, Inc.

Ann Curtis — Vice President
Crowley Maritime Corporation

Chuck Becker — Vice President
Brown & Root, U.S.A., Inc.

W.D. Bennett — Secretary
Perkins Coie

Val Molyneux — Treasurer
Veco, Inc.

Milton Byrd — Director
Charter College

Jack Thompson — Director
Air Van northAmerican

Tom Dow — Director
NANA Development

Craig Duncan — Director
Price Waterhouse

Randy Goodrich — Director
Executive Travel Service

Scott Hawkins — Director
Alaska Pacific Bancorporation

Roger Haxby — Director
Waukesha Alaska Corporation

Larry Holmstrom — Director
Holden, Hackney & Holmstrom

Joe Mathis — Director
Universal Services, Int'l, Inc.

Chuck McClain — Director
Calista Construction

Patrick Rumley — Director
Smith, Robinson & Gruening

Lowell Shinn — Director
Rainier Bank of Alaska

C. Larry Walker — Director
Frontier Companies of Alaska

Dan Black — Director
Price/CIRI Construction

Michelle Fleming
Executive Director

Kathie Tuttle
Administrative Assistant

January 31, 1986

FEB 4 1986

Senator Fred F. Zharoff
Alaska State Legislature
Box V
Juneau, Alaska 99811

Dear Senator Zharoff:

On behalf of all the members of the Alaska Support Industry Alliance, I want to commend you and your colleagues for a quick and professional start to this second session of the fourteenth Alaska legislature and to express our appreciation for your dedication to the public interest.

The Alliance brings together officers and employees of over two hundred companies in Alaska to focus on public policy issues which they feel will affect their general well being. These organizations, directly or indirectly, serve the needs of the state's petroleum and mining industries; consequently, the Alliance concentrates on a limited number of the many issues which come before you as a legislator.

From a survey of Alliance members, the following issues are found to be of particular concern and, as such, represent our priorities for 1986.

- * Maintain a stable tax policy and tax structure.
- * Assure predictable state and federal leasing programs.
- * Support promotional strategies for local hire without statutory mandate.
- * Enact amendment to Alaska labor law providing for overtime payment alternatives and a "good-faith" defense.
- * Reform the permitting process.

Alaska Support Industry Alliance

... for responsible economic development

January 31, 1986
Page Two

As you can see, Alliance members have kept this year's focus quite concentrated. Enclosed with this letter are position papers which expand on the issues. There are, nevertheless, other issues of critical concern currently under study, on which The Alliance is not yet prepared to define its position or on which we will lend support to those who have accepted leadership roles in pursuing such objectives. The crisis in liability insurance and the need to establish a trend in operating budget expenditures commensurate with declining revenues are two notable examples.

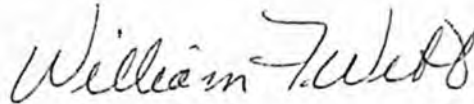
The thousands of employees and officers of firms that are members of The Alliance recognize clearly that you and your colleagues in the legislature are key to achieving our objectives. Without your help and support, these aspirations of our members cannot be realized.

The Alliance, in turn, is prepared to help you. Once again, Brown & Root has made available to us the services of Chuck Becker to serve as our lobbyist of record and whose experience with legislative bodies at all three levels of government, you are free to call on. Additionally, many other representatives of Alliance members are prepared to lend their considerable resources to your efforts, just let us know.

Again, on behalf of the members of The Alliance, I want to extend to you our best wishes for a successful session.

Sincerely,

ALASKA SUPPORT INDUSTRY ALLIANCE



William F. Webb
President

WFW:ph

Enclosures

Reauthorization of Alternative Methods of Overtime Compensation and Authorization of a "Good-Faith" Defense in Alaska Labor Law

In 1979, the previous State Administration with virtually no public input enacted regulations to prohibit the use of alternative wage an hour pay plans known as Fluctuating Work Week and BELO. Both of these plans are uniformly recognized and approved by other states and by the federal government. While each require strict adherence to necessary prerequisites before they can be used by an employer, both plans have proven highly beneficial to employers and employees in several industries of vital importance to the State of Alaska, such as mining, timber and oil and gas. For the employee, such plans permit greater stability of income; for the employer, such plans allow greater predictability of labor cost.

Since prohibition of these plans, both labor and management in Alaska have recognized that such action was excessively restrictive, and unnecessarily impedes economic development and job creation. Accordingly, the State Department of Labor, in cooperation with representatives of industry and organized labor, has worked to develop language acceptable to all parties concerned.

This legislation will re-establish alternative pay plans, while further protecting employees from any abuse of such plans.

The thrust, therefore, of the bill is to re-authorize alternative methods for payment of wages and, in addition, to establish a "good faith" defense to the imposition of liquidated damages against an employer in the event of an unknowing or otherwise justifiable failure to pay overtime wage rates.

This amendment, will be offered to the appropriate committees of the Legislature for consideration We trust it will earn your support and will be enacted.

THE ALLIANCE



MEMBER

ASSURE PREDICTABLE STATE AND FEDERAL LEASING PLANS

The U.S Department of the Interior is revising its five-year schedule for oil and gas lease sales in the outer continental shelf. Concurrently, the State Department of Natural Resources has established a five-year plan for oil and gas lease sales within the state's purview.

The stability of the state's leasing plan is in marked contrast to the relative lack of predictability of the federal plan which has been repeatedly set back by Congressional moratoria and court action. Indeed, the State of Alaska has been a principal litigant in the effort to frustrate federal plans. These actions have already had detrimental impacts on our economy and portend even greater harm to both the economy and our national security.

The Alliance calls on all parties concerned to work cooperatively and to base all decisions on a studied review of available data.

The federal government must recognize that a fraction of the revenues derived from commercial production in the outer continental shelf should be targeted to the states to offset costs associated with development on shore. Likewise, the state government must assume an active role in eliminating impediments to promising economic development scenarios and cease posturing as one of those impediments.

The Alliance has taken, and will continue to take a prominent role in informing Alaskans about the issues in this important matter and of the facts attendant to those issues. The jobs of too many Alaskans are placed in jeopardy when political expediency triumphs over empirical evidence in the decision-making process.

Reform the Permitting System

The Alliance advocates a reform of the permitting process. The Governor's changes that have resulted in many permitting decisions being made in the Office of the Governor have expedited several important oil and gas permits, which The Alliance commends.

However, The Alliance is concerned that a more comprehensive analysis and reform of the State's permitting system must be done to resolve fundamental flaws which remain.

As a first step to remedy the problem, The Alliance supports legislation which would accomplish the following:

- * Establish the Department of Natural Resources as the state's lead agency for coordination, review and processing of permits related to natural resource development;
- * Establish the Department of Natural Resources as the state's lead agency for coastal consistency review of natural resource development projects; and
- * Require that all state permit agencies include a cost/benefit analysis in their review of project proposals.

SUPPORT STRATEGIES FOR LOCAL HIRE WITHOUT STATUTORY MANDATE

The unemployed Alaskan represents a serious social and economic problem to the state which must be solved. Employment strategies targeted at the jobless must be devised and implemented cooperatively by government and industry working toward this common goal. Alaskans who are ready, willing and able to work must be given that opportunity.

Legislation which would employ mandates and sanctions designed to force Alaska businesses to hire Alaskans as a method to solve the problem of unemployment is counterproductive. Typically such an approach has been found to be an assault on the fundamental laws of our nation. Alaskans demand a more thoughtful approach towards resolution of the unemployment problem from its leaders of government; an approach which seeks resolution by creating an environment designed to generate new and expanded business opportunities.

A vibrant Alaska economy is the best local hire policy.

The entire Alaska business community must learn of the already existing incentives to hire an Alaskan worker. The spirit of independence, of self-sufficiency and of self-motivation pervades the Alaskan workforce unlike any other. An employer cannot put a better worker to work than an Alaskan.

The Alliance recommends an effort be launched by government and business, in a spirit of cooperation, to solve the problem of unemployment in Alaska and to promote the realities associated with the assertion . . .

"Hire Alaskans; its good business!"

MAINTAIN A STABLE TAX POLICY AND TAX STRUCTURE

Increasing taxes on Alaska's petroleum industry through one or more of several creative techniques, is not only counterproductive, such action could prove fiscally detrimental to the Alaska economy.

There are those who have suggested that a return to separate accounting for purposes of calculating corporate income taxes of oil and gas companies is more fair and accurate than the current modified apportionment method. It is not. Nor would it spur marginal oilfield development. On the contrary, the proposal is a de facto tax increase of enormous proportions which would certainly chill both exploration and development.

Likewise, tampering with the tax code by modifying the economic limit factor (ELF) is an equally imprudent proposal. The ELF allows severance taxes to be reduced as individual wells become less productive and margins narrow. In place, the ELF contributes to decisions destined to develop the "high tech" requirements of advanced recovery plans which will continue the revenue flow to the state from Alaska's oilfields. If eliminated, the impact could be significant enough to cause the early shutdown of these fields.

A robust oil and gas industry is a fundamental prerequisite for economic dynamism in other sections in the Alaska business community. A tax increase imposed during a period of declining revenues caused by instabilities in the world market place, will further aggravate an already tenuous market condition and could quickly curtail industry investments in Alaska.

As state revenues decline, state spending must decline.

It is in the best interest of the people of Alaska for their government leaders to foster conditions designed to attract investment and to create jobs.

The Alliance recommends the State of Alaska maintain a stable tax policy and tax structure and to act decisively on measures to reduce the state operating budget.