

ALASKA TELETYPE COMPANY
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STATE OF ALASKA
THE LEGISLATURE

APR 10 1985

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 10, 1985

SUBJECT: Resident employment preference under
oil and gas leases or agreements on
state lands (Work Order No. 14-1068)

TO: Representative Marco Pignalberi

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

Enclosed is the bill you requested. The bill raises constitutional issues. Under Hicklin v. Orbeck, 437 U.S. 518, 57 L.Ed. 2d 397, 98 S.Ct. 2482 (1978), the United States Supreme Court struck down a previous Alaska Hire law because its scope was too broad. The court held that state ownership of the oil and gas was insufficient under the Privileges and Immunities Clause to justify the statute's discrimination against nonresidents.

The scope of the preference in the statute struck down by the Court was broader than the preference in this bill. It applied to all state oil and gas leases, easements, or right-of-way permits for oil and gas pipelines and unitization agreements. The Court noted that it extended to employers who had no direct connection to the state's oil and gas, who performed no work on state land, had no contractual relationship with the state and received no payment from the state.

Whether the nexus between the state and the employers covered by this bill falls within the permitted ambit of state activity under the Privileges and Immunities Clause is not clear. The definition of "employer" in the bill is limited to require that the work be performed on state land and therefore meets at least one of the Hicklin standards. However, in Hicklin the Court also noted that even if a state may require private employers to practice a resident hiring preference to alleviate an unemployment problem, and even if a showing was made that nonresidents were a

'peculiar source of the evil,' nonetheless the Alaska Hire law would have been unconstitutional because its discrimination against nonresidents did not bear a substantial relationship to the 'evil' that nonresidents represented, since the preference applied to all Alaskans, not merely those who were unemployed. 437 U.S. at 528.

The Court may accept some modification of this doctrine. In United Building & Construction Trades Council v. Camden, 104 S.Ct. 1020, 79 L.Ed. 2d 249 (1984), labor organizations challenged a municipal ordinance giving city residents preference for 40% of the jobs on city construction projects. The ordinance did not limit the preference to unemployed residents nor did the Court raise that issue in its opinion. The Court remanded the case for development of a factual record establishing the grounds for the preference and supporting the remedy.

As United Bldg. & Construction makes clear, it is crucial to the survival of any resident preference legislation that an adequate legislative record be built showing clearly the facts establishing the cause of the problem and supporting the effectiveness of the preference as a remedy.

There is an additional issue over whether the connection between the state and the contractors under these oil and gas leases and agreements is sufficient to qualify the state as a market participant rather than a market regulator under White v. Massachusetts Council of Construction Employers, Inc., 460 U.S. 204, 103 S.Ct. 1042, 75 L.Ed.2d 1 (1983). In White, the Court held that the Commerce Clause established no barrier to a city employment preference on construction projects financed or administered by the City of Boston. However, in a footnote, the Court noted that

there are some limits on a state or local government's ability to impose restrictions that reach beyond the immediate parties with which the government transacts business. Cf. Hicklin v. Orbeck, 437 U.S. 518, 529-531 (1978). We find it unnecessary in this case to define those limits with precision, except to say that we think the Commerce Clause does not require the city to stop at the boundary of formal privity of contract. In this case, the mayor's executive order covers a discrete, identifiable class of economic activity in which the city is a major participant. Everyone affected by

Representative Marco Pignalberi
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Page 3

the order is, in a substantial if informal sense,
'working for the city.' 51 LW at 4213.

If I may be of further assistance, please advise.

TBC:cjb
J13/077

SUGGESTED AMENDMENTS

Representative Marco A. Pignalberi
SUGGESTED AMENDMENTS
HB 367
May 2, 1985

SUGGESTED AMENDMENTS

Following are the amendments suggested by the Department of Labor. These changes were made following their testimony before the Senate Resources Committee. I've included a comparison between the amendments and the original section language.

Subsection 020 Legislative Findings

New language was inserted strengthening the legislative findings about unemployment, and additional factual information was included to support the findings.

Subsection 030 Resident Hire

subsection (a)

changes an "oil and gas project" to "natural resource project". This wording is incorporated throughout the bill. This has the effect of broadening the scope of application to include more than just oil and gas projects. Under the new language, resident hiring preferences can also be enforced against any employer engaged in projects in the mining and forestry industries.

subsection (c)

strengthens language directing the Commissioner of Natural Resources to incorporate into leases and agreements a compliance provision for contractors or subcontractors who will be operating on state land.

subsection (d)

relieves the Department of Labor of the responsibility for maintaining a list of names of residents seeking employment. A further change is that an employer now "requests" of the Department of Labor to "assist in locating resident employees".

Subsection 050 Applicability of Chapter

Recommended changes in this subsection remove the minimum value determination for projects subject to the hiring preference provisions. All natural resource projects are now subject to the provisions of this chapter if the Commissioner of Labor so determines. The Commissioner is authorized to "determine the extent of the resident hiring preference for each project".

Subsection 060 Regulations and Hearings

subsection (b)

The suggested change establishes the number of days (30) for a rejected applicant or terminated employee to request a hearing to determine whether an employer violated a provision of this chapter. A second change increases from 10 days to 20 the time within which the Department of Labor shall hold a hearing on the complaint.

Subsection 070 Penalties

adds a new subsection 4(c) which allows the Commissioner of Natural Resources to increase the rental or other compensation from a lease, or to require the project to cease operation on a lease if the lessee itself has failed to comply or failed to incorporate into the contract with the violator a provision requiring compliance.

Rep. Marco Pignalberi
SUGGESTED AMENDMENTS
HB 367
MAY 2, 1985

Subsection 090 Definitions

additional definitions for:
"natural resource project"
"qualified resident"

SECTION 2

Adds new language enabling the provisions of this Act to be retroactive. Renegotiated leases, agreements or contracts entered into before the effective date of this Act may come under the preference provisions of this chapter is it "results in a major change to the duties of a party".

Department of Labor
Proposed Amendments to
House Bill 367

1. Amend Sec. 38.45.020 by adding four additional findings, as follows:
 1. because of its unique climate and its distance from the contiguous states, the state has historically suffered from unique social, seasonal, geographic, and economic conditions that result in an unstable economy;
 2. the unstable economy is a hardship on the residents of the state and is aggravated by the large numbers of seasonal and transient nonresident workers;
 3. the state has one of the highest ratios of nonresident to resident workers in the nation;
 4. the state has a compelling interest in reducing the level of unemployment among its residents;
2. Amend line 1 on page 2 to read:

"exploration, development, production, and extraction of natural resources on state land,"
3. Amend line 8 on page 2 to read:

"production, and extraction of natural resources on state land;"
4. Amend lines 16 and 17 on page 2 to read:

"dents from work in the development, exploration, production and extraction of natural resource products on state land and from work in service occupations on"
5. Amend lines 20 and 21 on page 2 to read:

"hired for work on state land, in the development, exploration, production, and extraction of state resources, is a peculiar source of the unemploy-"
6. Amend line 24 on page 2 to read:

"been predicated upon assurances from the natural resource industries that"
7. Amend line 26 on page 2 to read:

"tion, development, and production of natural resources from state-owned"
8. Amend line 2 on page 3 to read:

"under this section on a natural resource project on state land that is"

9. Amend lines 4 and 5 on page 3 to read:

"not discriminate against qualified residents in employment on a natural resource project on state land."

10. Amend line 8 on page 3 to read:

"natural resource project on state land. In making this determination, the"

11. Amend line 15 on page 3 to read:

"ified residents to employment in natural resource projects on state land,"

12. Amend lines 18 thru 24 on page 3 to read:

"ment, provisions requiring compliance with this chapter, regulations adopted under this chapter, and all later amendments to this chapter or the regulations, and authorizing penalties under AS 38.45.070 for failure to comply. The commissioner shall incorporate into each lease, agreement, or renegotiation a requirement that the lessee include a provision requiring compliance with this chapter, later amendments of this chapter, regulations adopted under this chapter and authorizing penalties under AS 38.45.070 in a contract under the lease or agreement with contractors or subcontractors who will be operating on state land.

(d) An employer subject to resident hiring requirements under this chapter may request the Department of Labor to assist in locating qualified available resident employees. After receiving a request for assistance, the department shall refer qualified available residents to the employer to fill the employer's hiring needs. If the department is unable to refer a sufficient number of residents, it may approve the hiring of nonresidents for the balance of the request."

13. Amend Sec. 38.45.050, beginning on line 29 of page 3 and continuing thru line 16 of page 4 to read:

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

14. Amend line 21 on page 4 to read:

"employment on a natural resource project on state land. Regulations and"

15. Amend line 26 on page 4 to read:

"ed or an employee who has been terminated from employment may, within 30 days after the rejection or termination, request"

15. Amend line 1 on page 5 to read:

"the question within 20 days of receipt of the request unless the"

17. Amend line 28 on page 5 to read:

"three years, the eligibility of the employer to contract with the state or"

18. Amend Sec. 38.45.070 by adding a new subsection to read:

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

19. Amend line 13 on page 6 to read:

"party to a lease or agreement for a natural resource project on state land"

20. Amend AS 38.45.090(2), lines 17 thru 20 on page 6, to read:

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

21. Amend Sec. 38.45.090 by adding a new definition to read:

"qualified resident" means a resident who possesses the requisite education, training, skills, or experience to perform the work;

22. Amend line 25 on page 6 to read:

"natural resource project on state land; and"

23. Amend Sec. 2, beginning on line 28 on page 6 and continuing thru line 1 on page 7, to read:

"Sec. 2. This chapter applies to a lease, unitization agreement, or contract for the development of oil and gas, or mineral or timber resources entered into after the effective date of this Act and to a renegotiation of the lease, agreement or contract. This chapter applies to the renegotiation after the effective date of this Act of a lease, agreement, or contract entered into before the effective date of this Act if the renegotiation results in a major change to the duties of a party."

CS FOR HOUSE BILL NO. 367 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

CHAPTER 45. RESIDENT EMPLOYMENT PREFERENCE UNDER STATE LEASES.

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

Sec. 38.45.020. LEGISLATIVE FINDINGS. The legislature finds:

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

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

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

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

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

3
4 (6) a major factor of increasing importance in the unem-
5 ployment problem is the failure of employers engaged in the explora-
6 tion, development, and production of natural resources on state land,
7 and under leases or other agreements granted or permitted by the
8 state, to employ state residents;

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

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

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

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

1 development, exploration, and production activities; therefore, the
2 growing number of nonresidents hired for work on state land, in the
3 development, exploration, production, and extraction of state re-
4 sources, is a peculiar source of the unemployment evil now besetting
5 the state;

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

12 Sec. 38.45.030. RESIDENT HIRE REQUIREMENTS. (a) An employer
13 shall meet the resident hiring requirements established by the commis-
14 sioner of labor under this section on a natural resource project on
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 work
19 that must be performed under this chapter by qualified residents on a
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 of
23 residents to perform the work. The commissioner shall require an
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 state
28 land, the commissioner of natural resources shall incorporate into
29 each lease, unitization agreement, or renegotiation of a lease or

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

12 (d) An employer subject to resident hiring requirements under
13 this chapter may request the Department of Labor to assist in locating
14 qualified available resident employees. After receiving a request for
15 assistance, the department shall refer qualified available residents
16 to the employer to fill the employer's hiring needs. If the depart-
17 ment is unable to refer a sufficient number of residents, it may
18 approve the hiring of nonresidents for the balance of the request.

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

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

28 Sec. 38.45.060. REGULATIONS AND HEARINGS. (a) The Department
29 of Labor and the Department of Natural Resources shall adopt regula-
tions to implement this chapter. The Department of Labor shall adopt

1 regulations prohibiting discrimination against qualified residents in
2 employment on a natural resource project on state land. Regulations
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 qualifica-
6 tions of applicants for employment. An applicant who has been reject-
7 ed or an employee who has been terminated from employment may, within
8 30 days after the rejection or termination, request a hearing before
9 the Department of Labor to determine whether the employer violated
10 this chapter in denying the application or terminating the employment.
11 The Department of Labor shall hold a hearing on the question within 20
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 and
15 hearings to determine compliance with this chapter. If the commis-
16 sioner of labor finds that an employer has wilfully failed to comply
17 with this chapter, the commissioner may certify the finding to the
18 Department of Natural Resources.

19 Sec. 38.45.070. PENALTIES. (a) If the Department of Labor
20 finds that an employer has rejected a qualified applicant or term-
21 inated a qualified employee from employment in violation of this
22 chapter, the department may require the employer to pay the person
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 of
25 the wrongful action exceeded the triple wages assessed. Either party
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 of
29 noncompliance by the Department of Labor under AS 38.45.060, may

1 investigate and conduct hearings. If it finds wilful noncompliance,
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 re-
5 ceived by the state under the project lease or agreement by a factor
6 of no more than 10; the increase may not exceed \$100,000;

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

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

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

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

21 Sec. 38.45.080. INJUNCTIVE RELIEF. The Department of Labor or
22 the Department of Natural Resources, in addition to the imposition of
23 penalties under AS 38.45.070, may seek injunctive relief against a
24 person who is not in compliance with this chapter; the Department of
25 Natural Resources may seek injunctive relief to enforce penalties
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 a
29 party to a lease or agreement for a natural resource project on state

1 land and includes the person's affiliate, principal, subsidiary,
2 contractor, or subcontractor if the activity of the affiliate, princi-
3 pal, subsidiary, contractor, or subcontractor is performed on state
4 land;

5 (2) "natural resource project on state land" means a con-
6 tract, lease, unitization agreement, or a renegotiation of a contract,
7 lease, or agreement for exploration, development, extraction or pro-
8 duction 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 a
18 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, or
22 contract for the development of oil and gas, or mineral or timber resources
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 renegotia-
25 tion after the effective date of this Act of a lease, agreement, or con-
26 tract entered into before the effective date of this Act if the renegotia-
27 tion 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).

FISCAL NOTES

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB 367 (L&C)
 Title: "An act requiring resident hire on nat. resource proj. st. lands
 Sponsor: Pignalberi, et. al.
 Requestor: House Labor & Commerce
 Date of Request: 4/30/85

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 | | 111.9 | 115.8 | 239.1 | 247.5 | 256.1 |
| 200 TRAVEL | | 17.0 | 18.0 | 50.3 | 53.3 | 56.5 |
| 300 CONTRACTUAL | | 31.9 | 28.5 | 59.9 | 63.5 | 67.3 |
| 400 SUPPLIES | | 2.0 | 2.1 | 3.9 | 4.1 | 4.4 |
| 500 EQUIPMENT | | 14.8 | 0 | 5.4 | 0 | 0 |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS | | | | | | |
| 800 MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | | 177.6 | 164.4 | 358.6 | 368.4 | 384.3 |

| | | | | | | |
|----------------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|----------------|--|--|--|--|--|--|

| | | | | | | |
|----------------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|----------------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|--------------|--------------|--------------|--------------|--------------|
| GENERAL FUND | | 177.6 | 164.4 | 358.6 | 368.4 | 384.3 |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | 177.6 | 164.4 | 358.6 | 368.4 | 384.3 |

POSITIONS:

| | | | | | | |
|-----------|--|---|---|---|---|---|
| FULL-TIME | | 3 | 3 | 6 | 6 | 6 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert J. Bacolas, Sr. Phone: 465-4870
 Division: Labor Standards & Safety Date: 4/30/85
 Approved by Commissioner: Jim Robison Date: 4/30/85
 Agency: Labor

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

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA
THE FOURTEENTH LEGISLATURE
BILL/RESOLUTION NO.: CS HB 367 (L&C)
TITLE: "An Act requiring resident hire under certain natural resource
projects on state lands"
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

Two Wage and Hour Investigators 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 \$15,000 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.

| CONTINUATION LEVEL | | ADDITION | |
|--------------------------------|-----------|----------|---------------|
| Type of Expenditure | | 2 | 3 |
| PERSONAL SERVICES | | | |
| Salary | | 32,424 | |
| Benefits | | 5,401 | |
| Supplemental Benefits | | 1,987 | |
| Fixed Benefits | | 2,735 | |
| TOTAL PERSONAL SERVICES | 01 | | 42,547 |
| Travel | 02 | | 8,500 |
| Cont. actual | 03 | | 9,490 |
| Commodities | 04 | | 500 |
| Equipment | 05 | | 1,600 |
| Other | | | |
| TOTAL COST | | | 62,637 |

JUSTIFICATION

This position would monitor new or re-negotiated oil and gas leases and other natural resources projects on state land 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.

| RECEIPT CODE | FUNDING SOURCE | |
|--------------|------------------|--------|
| | Federal Receipts | 1002 |
| | G.F. Match | 1003 |
| | General Funds | 1004 |
| | I-A Receipts | 1005 |
| | Program Receipts | 1028 |
| | Other | |
| | | 62,637 |

or M&B Use Only
 A Key Number _____

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage & Hour Administration

FY 86

Page 1 of 3
 Revised Date

LEG:F:

| | | | | | | | |
|---|--|--------------------|-------------------|-------------------|--------------|-----------------------|---------------------------|
| 1 | Position Title Wage & Hour Investigator I | Range/Step 16A | Barg. Unit GGU | Form 12 Page/Line | GOV. | REV. | DISAPP. |
| 2 | Type of Position PFT | Staff Months 12 | RP Number | PCN Number | BRU Priority | Location Anchorage | Election District LEG. |

| CONTINUATION LEVEL | | ADDITION | |
|--------------------------------|----|----------|--------|
| Type of Expenditure | | | Amount |
| PERSONAL SERVICES | | | |
| Salary | | 32,424 | |
| Benefits | | 5,401 | |
| Supplemental Benefits | | 1,987 | |
| Fixed Benefits | | 2,735 | |
| TOTAL PERSONAL SERVICES | 01 | | 42,547 |
| Travel | 02 | | 8,500 |
| Contractual | 03 | | 9,490 |
| Commodities | 04 | | 500 |
| Equipment | 05 | | 1,600 |
| Other | | | |
| TOTAL COST | | | 62,637 |

JUSTIFICATION

This position would monitor new or re-negotiated oil and gas leases and other natural resources projects on state land 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.

| RECEIPT CODE | FUNDING SOURCE | |
|--------------|------------------|--------|
| | Federal Receipts | 1002 |
| | G.F. Match | 1003 |
| | General Funds | 1004 |
| | I-A Receipts | 1005 |
| | Program Receipts | 1028 |
| | Other | |
| | | 62,637 |

For M&B Use Only
 1A Key Number _____

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage & Hour Administration

FY 86

| | | | |
|--------------|---|----|---|
| Page | 2 | of | 3 |
| Revised Date | | | |

LEG:F:

| CONTINUATION LEVEL | ADDITION | Amount |
|--------------------------------|-----------|---------------|
| Type of Expenditure | | |
| PERSONAL SERVICES | 2 | 3 |
| Salary | 19,572 | |
| Benefits | 3,261 | |
| Supplemental Benefits | 1,200 | |
| Fixed Benefits | 2,735 | |
| TOTAL PERSONAL SERVICES | 01 | 26,768 |
| Travel | 02 | 0 |
| Contractual | 03 | 7,948 |
| Commodities | 04 | 1,000 |
| Equipment | 05 | 1,600 |
| Other | | |
| TOTAL COST | | 37,316 |

JUSTIFICATION

This clerical position would provide typing, filing, and data entry under the provisions of this bill.

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.

| RECEIPT CODE | FUNDING SOURCE | Amount |
|--------------|-----------------------|--------|
| | Federal Receipts 1002 | |
| | G.F. Match 1003 | |
| | General Funds 1004 | 37,316 |
| | I-A Receipts 1005 | |
| | Program Receipts 1028 | |
| | Other | |

For M&B Use Only
 1A Key Number _____

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor
 PROGRAM Worker Protection
 BRU Labor Standards & Safety
 COMPONENT Wage & Hour Administration

FY 86

Page 3 of 3
 Revised Date

LEG:F:

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

APR 29 1985

REQUEST

Bill/Resolution No.: HB 367
 Title: Resident Hire Under Oil and Gas Leases on State Land
 Sponsor: Pignalberi, Cotten, Davis
 Requestor: House Labor & Commerce
 Date of Request: 4/25/85

FISCAL DETAIL

Agency Affected: Natural Resources
 Program Category Affected: NRMEC
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 SUPPLIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS | | | | | | |
| 800 MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |
| REVENUE | -0- | -0- | -0- | -0- | -0- | -0- |

FUNDING: (Thousands of Dollars)

| | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|---------------|-------|-------|-------|-------|-------|-------|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | -0- | -0- | -0- | -0- | -0- | -0- |

POSITIONS:

| | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|-----------|-------|-------|-------|-------|-------|-------|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: Attach a separate page if necessary

Prepared By: Carol Wilson Phone: 465-2400
 Division: Commissioner's Office Date: 4/25/85
 Approved by Commissioner: Arno D Arnold, Deputy Date: 4/25/85
 Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

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

7/1/84

CITY OF FORT YUKON

INCORPORATED 1959

Post Office Box 269

Telephone (907) 662-2479 or 2379

Fort Yukon, Alaska 99740

December 30, 1985

Senator Arliss Sturgulewski,
Alaska State Legislature,
Pouch V,
Juneau, Alaska 99811

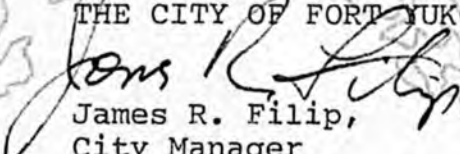
Dear Senator Sturgulewski:

On behalf of Mayor Carroll and the members of the Fort Yukon City Council, I am pleased to send you a copy of Resolution No. 85-15 which calls attention to the need for preferential hire for Alaskans.

During the coming session you will be involved in many issues of importance to the residents of the state, but none may be more important than those which create jobs, and which provide the means for those jobs to be occupied by qualified Alaskans.

Thank you for your consideration.

Sincerely,
THE CITY OF FORT YUKON


James R. Filip,
City Manager

CITY OF FORT YUKON

INCORPORATED 1959

Post Office Box 269

Fort Yukon, Alaska 99740

Telephone (907) 662-2479 or 2379

RESOLUTION NO. 85-15

A RESOLUTION URGING THE ALASKA LEGISLATURE TO ENACT LEGISLATION GIVING PREFERENTIAL HIRE TO ALASKANS

WHEREAS, Alaskan communities have traditionally experienced serious economic problems compounded by seasonal periods of high unemployment among their residents, and

WHEREAS, these problems are made more severe when nonresident employees are allowed to take jobs which add to higher levels of unemployment among residents of the state, and

WHEREAS, total employment is not now currently sufficient to allow for the immigration of workers without adversely affecting the chances of employment for resident Alaskans in search of work,
Arctic Circle

NOW, THEREFORE, BE IT RESOLVED that the Alaska legislature is called upon to recognize the importance of taking prompt action to seek a constitutionally fair method to provide for the preferential employment of Alaskans in public construction projects.

Adopted this 10th day of December, 1985.

/s/ Richard C. Carroll
Richard C. Carroll,
Mayor

ATTEST

Susan E. Salmon
Susan E. Salmon,
City Clerk-Treasurer

DEPARTMENT OF LAW

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

OFFICE OF THE ATTORNEY GENERAL

April 16, 1985 RECEIVED

APR 18

Josephson,

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

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 Zharoff
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.

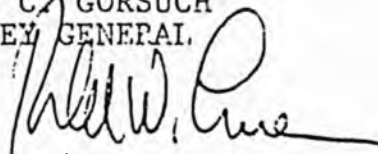
3) The bill does not address the problem in Hicklin of giving all state residents an employment preference, whether or not they are unemployed or underemployed. In this regard, creating "employment target groups" comprised of unemployed residents, chronically underemployed residents, and training-qualified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

cc: Honorable Joe Josephson
Senator

Honorable Red Boucher
Representative

Honorable Marco Pignalberi
Representative

A R C O A L A S K A

E M P L O Y E E S

| EMPLOYEE CLASSIFICATION | TOTAL | ALASKA Number | ADDRESS Percent |
|----------------------------|-------|------------------|--------------------|
| Professional | 1,006 | 1,002 | 99.6 |
| Field Technician | 769 | 746 | 97.0 |
| Salaries Non-Exempt | 333 | 332 | 99.7 |
| Other | 13 | 13 | 100.0 |
| TOTAL | 2,121 | 2,093 | 98.7 |

Contractor Employees in ARCO Operations Support

| | <u>Alaskans</u> | | <u>Natives</u> | |
|--------------------|------------------------|-----------------------------|------------------------|-----------------------------|
| | <u>Number Employed</u> | <u>Percent of Workforce</u> | <u>Number Employed</u> | <u>Percent of Workforce</u> |
| Materials Handling | 154 | 96% | 3 | 2% |
| Catering | 119 | 77% | 43 | 28% |
| Maintenance | 284 | 58% | 16 | 3% |
| Security | 65 | 74% | 1 | 1% |

Exhibit 1A
ARCO ALASKA CONSTRUCTION CONTRACTS
 1983 to Present
 (Awards Greater than One Million Dollars)

| <u>PRUDHOE/LISBURNE</u> | <u>NO. OF CONTRACTS</u> | <u>%</u> | <u>CONTRACT VALUE (\$Millions)</u> | <u>%</u> |
|---|-----------------------------|-----------|--|-----------|
| Alaska Contractors | 77 | 97% | \$397.9 | 97% |
| Non-Alaska Contractors | <u>2</u> | <u>3</u> | <u>10.9</u> | <u>3</u> |
| Total | 79 | 100% | \$408.8 | 100% |
| Union | 48 | 61% | \$316.5 | 77% |
| Non-Union | <u>31</u> | <u>39</u> | <u>92.3</u> | <u>23</u> |
| Total | 79 | 100% | \$408.8 | 100% |
| <u>KUPARUK</u> | | | | |
| Alaska Contractors | 44 | 92% | \$328.9 | 95% |
| Non-Alaska Contractors | <u>4</u> | <u>8</u> | <u>18.3</u> | <u>5</u> |
| Total | 48 | 100% | \$347.2 | 100% |
| Union | 40 | 83% | \$322.1 | 93% |
| Non-Union | <u>8</u> | <u>17</u> | <u>25.1</u> | <u>7</u> |
| Total | 48 | 100% | \$347.2 | 100% |
| <u>COMBINED PRUDHOE/ LISBURNE AND KUPARUK</u> | | | | |
| Alaska Contractors | 121 | 95% | \$726.8 | 96% |
| Non-Alaska Contractors | <u>6</u> | <u>5</u> | <u>29.2</u> | <u>4</u> |
| Total | 127 | 100% | \$756.0 | 100% |
| Union | 88 | 69% | \$638.6 | 84% |
| Non-Union | <u>39</u> | <u>31</u> | <u>117.4</u> | <u>16</u> |
| Total | 127 | 100% | \$756.0 | 100% |

ALASKA HIRE SURVEY

(ARCO Alaska Construction Contracts)

| CONTRACTOR | ALASKA | | | | NON-ALASKA CRAFT/STAFF | TOTAL CRAFT/STAFF |
|-----------------|---------------|-----------|---------------|-----------|---------------------------|----------------------|
| | CRAFT | | STAFF | | | |
| | NON NATIVE | NATIVE | NON NATIVE | NATIVE | | |
| A (U) | 58 | 5 | 17 | 4 | 12 | 96 |
| B (U) | 20 | 0 | 5 | 0 | 0 | 25 |
| C (U) | 100 | 8 | 37 | 2 | 20 | 167 |
| D (U) | 36 | 1 | 7 | 0 | 13 | 57 |
| E (U) | 21 | 1 | 15 | 1 | 6 | 44 |
| F (U) | 1049 | 56 | 32 | 0 | 246 | 1383 |
| SUBTOTAL | 1284 | 71 | 113 | 7 | 297 | 1772 |
| G (NU) | 140 | 6 | 11 | 0 | 54 | 211 |
| H (NU) | 79 | 12 | 2 | 6 | 30 | 129 |
| I (NU) | 0 | 0 | 40 | 4 | 0 | 44 |
| J (NU) | 0 | 0 | 4 | 0 | 13 | 17 |
| K (NU)* | 7 | 4 | 3 | 0 | 6 | 20 |
| L (NU) | 17 | 2 | 1 | 0 | 6 | 26 |
| SUBTOTAL | 243 | 24 | 61 | 10 | 109 | 447 |
| TOTAL | 1527 | 95 | 174 | 17 | 406 | 2219 |

* NON-ALASKA CONTRACTOR

| 12/4/85 | CRAFT/STAFF |
|---------------------|-------------|
| UNION | 80% |
| NON-UNION | 20% |
| TOTAL SURVEY | 100% |

| 12/4/85 | ALASKA CRAFT/STAFF | NON-ALASKA CRAFT/STAFF |
|-----------------------|-----------------------|---------------------------|
| UNION | 83% | 17% |
| NON-UNION | 76% | 24% |
| TOTAL | 82% | 18% |
| SURVEY AVERAGE | 82% | 18% |

| 12/4/85 | NON-NATIVE | NATIVE |
|-----------------------|------------|-----------|
| UNION | 95% | 5% |
| NON-UNION | 90% | 10% |
| ALASKA | 94% | 6% |
| SURVEY AVERAGE | 94% | 6% |

Exhibit 1C
CONTRACTOR L (NU)
Alaska Experience since 1983

| <u>CLIENT</u> | <u>PEAK MANPOWER</u> | <u>LOCAL HIRE RATIO</u> |
|---|----------------------|-------------------------|
| ARCO-Kuparuk Interconnect | 182 | 67% |
| ARCO-SIP | 15 | 85% |
| ARCO-COTU I | 22 | 92% |
| Haliburton Revamp | 25 | 100% |
| Misc. Casual Labor | 6 | 100% |
| Marathon Steelhead Platform (Future 1986 Work) | 200 | 90% (Goal) |
| CONOCO-Maintenance | 70 | 90% |
| ARCO-Electrical Maintenance | 10 | 90% |



Anchorage,
Alaska

Harold C. Heinze
Phone 265-6511

December 24, 1985



The attached letter was sent to the following
Representatives:

Marco A. Pignalberi
Fritz Pettyjohn
Walt Furnace
Virginia Collins
Randy Phillips
Drue Pearce
Alyce Hanley

RECEIVED

DEC 26 1985

DAVID A. HEATWOLE



*sent per [unclear]
[unclear] [unclear]
[unclear] [unclear]
[unclear] [unclear]*

ARCO Alaska, Inc.
Post Office Box 100360
Anchorage, Alaska 99510
Telephone 907 265 6511

Harold C. Heinze
President

December 23, 1985

The Honorable Marco Pignalberi
Alaska State Legislature
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Representative Pignalberi:

I appreciate your letter of December 5 expressing your concerns about oil taxation and Alaska hire. Your continued opposition to additional oil taxes is essential to preserving Alaska's economy and jobs.

ARCO Alaska has long supported the concept of Alaska hire. We believe that oil development should be of benefit to all Alaskans. Examples of our commitment are the facts that we are headquartered in Anchorage and that the Department of Labor has reported over 98% of our 2200 employees are Alaska residents.

I accept your suggestion of trying to improve our contractor achievement. I have asked my key managers to review our contracting practices with regard to Alaska hire and search for new approaches. As an immediate step we are re-communicating our concern to contractors, and informing them we intend to publish their commitment to hiring Alaskans in our bid award press releases. I am pleased that the recipient of our last two maintenance contract awards, VECO and Peak, committed themselves to 90-95% Alaska hire (see attachments). We are hopeful these successful bid awards noting Alaska hire percentages will encourage other contractors bidding on our jobs to increase their level of Alaska hire. We recognize that our unionized contractors, whom are very important to us, have less flexibility in meeting our goals (attached letter).

A quick review of ARCO's drilling operations indicates that we currently utilize 8 of the 9 existing Alaska drilling contractors. These drilling contractors report Alaska hire percentages varying between 50% and 90%. We will explore ways to see what improvements may be possible.

WJ
BW
Kevin
Beckey
+ file with
Local hire
bullet -

H



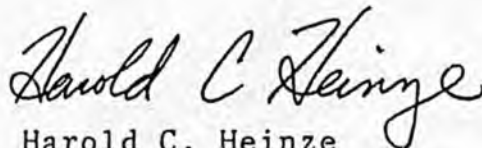
Honorable Marco A. Pignalberi
Page 2
December 23, 1985

If "Alaska hire" becomes an essential item of the legislative agenda, I would urge your support of an incentive approach, rather than the punitive/regulatory style of earlier proposals. The idea of tax credits to employers of Alaskans seems the most effective and workable of various suggestions.

You can be assured that ARCO Alaska will work even harder with our contractors to encourage and aid improvements in their Alaska and local hire. We intend to publicize their commitment and correct the misinformation that appears to exist.

Thank you for expressing your concerns. As we formulate other new approaches, I would like to discuss them with you.

Sincerely,



Harold C. Heinze

cc:

J. W. Bass, Kuparuk Project Manager
H. P. Foster, Jr. , Vice-President, Engineering
J. W. Hart, Prudhoe Operations Manager
M. L. Hazelwood, Vice-President, Finance, Planning
& Control
D. A. Heatwole, Vice President, External Affairs
R. H. Murtland, Contracts Formation & Admin. Manager
L. R. Nunn, Alaska Construction Manager
B. L. Odom, Sr. Vice President, Operations
R. A. Ruedrich, Drilling Manager
J. D. Weeks, Kuparuk Operations Manager

Arco awards contracts

Associated Press

Two Anchorage companies have won multimillion-dollar contracts from Arco Alaska Inc. for construction work on the North Slope.

The oil company announced Monday that Veco Inc. has received a contract for more than \$5 million. Veco will provide warehousing and material control service to support the Prudhoe Bay and Lisburne oil fields. Arco said Veco has promised that more than 90 percent of its employees on the job will be

Alaskans and more than 8 percent will be Alaska natives.

The other company, Peak Maintenance and Equipment Co., won a contract to maintain construction equipment and facilities used in putting together the new Lisburne oil field. Arco said the contract value could go over \$10 million, depending on the level of construction activity next year. Arco said Peak has pledged a goal of hiring more than 95 percent Alaska residents and more than 15 percent Alaska natives.

Arco awards contracts for North Slope services

Arco Alaska Inc. has awarded a new contract and extended another contract — together totaling \$16 million — to Universal Services Inc. International for catering and housekeeping services on the North Slope.

Under the new contract, Universal Services, an independent contractor based in Anchorage, will begin work for Prudhoe Bay and Lisburne projects Jan. 1. Universal expects to hire locally 90 percent of its workforce.

The award could exceed \$10 million, Arco said, depending on the size of the camp population.

The award was made on the basis of competitive bidding, Arco said.

Additionally, Universal's contract for catering services for Arco's construction camp at the Kuparuk River oil field has been extended another year.

The \$6 million contract will provide jobs for 30 to 40 Universal workers.



AK CONST. MGR

McDONALD INDUSTRIES ALASKA, INC.

7260 Homer Drive
Anchorage, Alaska 99518
(907) 344-9662

DEC 15 '85

December 12, 1985

| | |
|---|---|
| <input checked="" type="checkbox"/> Bus. Mgr. | <input type="checkbox"/> Primary |
| <input type="checkbox"/> Engrng Mgr. | <input type="checkbox"/> File |
| <input checked="" type="checkbox"/> FCI | <input type="checkbox"/> File Handle |
| <input checked="" type="checkbox"/> HCH | <input type="checkbox"/> Discuss |
| <input checked="" type="checkbox"/> DAH | <input checked="" type="checkbox"/> [unclear] |

Mr. Lee Nunn
ARCO Alaska, Inc.
700 "G" Street
Anchorage, Alaska 99510

RECEIVED

DEC 17 1985

HAROLD C. HEINZE

Dear Lee:

I would like you to consider this as my personal assurance to you of our commitment to Alaska hire on the Peak Maintenance work and all our business operations in Alaska.

As you may know, McDonald Industries Alaska is an Alaska corporation and employs only Alaska residents in its retail equipment activities. McDonald Industries Alaska has been in the equipment business in Alaska over 15 years and now employs over 80 full time Alaska resident employees. Although McDonald Industries Alaska, Peak Maintenance, Summit Equipment, and Brooks Range Supply are our primary businesses in Alaska, with assets in excess of \$30 million, we are also affiliated with other large Alaska resident employees such as Spenard Builders Supply, Pelican Seafoods, Royal Highway Tours, and Sundance Cruises. Moreover, our growth trends are favorably oriented toward a continuing investment in the State.

The joint venture partnership of McDonald Industries Alaska and Cook Inlet Region Inc. have competed for equipment maintenance contracts with ARCO which resulted in significant Alaska hire. For example, the Peak Maintenance contract at Kuparuk is over 90% Alaska residents and the Summit Equipment contract at Prudhoe Bay is over 85% Alaska residents. These percentages do not include the Anchorage home office staff and general manager who are all Alaska residents.

Peak Maintenance will increase the Alaska resident employment above 95% of the workforce on the upcoming equipment and facilities maintenance contract at Prudhoe Bay. This will be accomplished because there is more flexibility in hiring under the non-union makeup of Peak Maintenance as contrasted with the current contract, where hiring control is limited by dispatching from the union.

As delineated in the Peak Maintenance proposal, our Alaska hire program will aggressively reach out to specifically include employment of North Slope Borough residents, our partner Cook Inlet Region Inc.'s family of shareholders, and then other available Alaskans. The management of Peak Maintenance, in addition to the management of the related Alaska companies mentioned earlier, will meet its responsibility to Alaskan employees and Alaska employment.

I would be glad to visit with you to discuss our Alaska hire policy and record further, or to answer any questions you may have on this important issue.

Sincerely,

Kirby McDonald
Kirby McDonald

MEMORANDUM JM

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL AND GAS

TO: Esther C. Hunnicke
Commissioner

State of Alaska

DATE: October 31, 1985

FILE NO:

TELEPHONE NO: 561-2020

FROM: Kay Brown
Director

SUBJECT: Local Hire

Local hire provisions in various forms have been included as part of competitive and non-competitive oil and gas leases since the early 1970's. The issue increased in importance in the 1980's, and the Division of Oil and Gas has spent many hours and dollars trying to encourage the hiring of Alaska residents as part of the development of the state's oil and gas resources.

The earliest versions of the local hire provision merely required the lessee to submit a quarterly employment report to the Commissioner of the Department of Labor. The provision was expanded prior to the 1979 Joint Beaufort Sea Sale to require the lessee to comply with "... all valid and applicable laws and regulations with regard to the hiring of Alaska residents." The provision was amended to "encourage" lessees to hire Alaskans for Sale 33, held in May 1981. The requirement was further revised for Sales 36 (May 1982) and 34 (September 1982) to require the lessee to submit an annual statistical and hiring program report to the division. Our staff then forwarded the reports to the Department of Labor for use in their educational program planning. This arrangement was abandoned in early 1985 at the request of the Department of Labor, as well as at the urging of some lessees. Labor determined that it had no use for the reports.

The most recent (and strongest) local/preferential hire language is found in the Chevron and Tesoro royalty oil contracts, and the contract being negotiated with Petro Star. The provision says, "Purchaser agrees to hire and employ Alaska residents and Alaska companies ..." A clause is included to cover the possibility that the provision may be found to be unconstitutional, as follows, "Purchaser agrees to hire and employ Alaska residents and Alaska companies to the extent such preferential hiring is determined to be constitutional." A copy of this language is attached.

At the request of Governor Sheffield's staff, DO&G staff have attempted to devise additional innovative local hire recommendations. Some of these programs are not in our area of expertise and, if worthy, should be referred to the appropriate agency for further consideration. Our ideas are summarized and discussed below.

Commissioner Esther C. Wunnicke

Page 2

October 31, 1985

LOCAL HIRE IDEAS:

1. Include the negotiated royalty contract language as a provision of the oil and gas lease form and unit agreement form. This would be the easiest and least costly option to administer since it requires no enforcement. However, it is not clear whether the provision is constitutional or whether the provision would prove effective.
2. Provide tax incentives to companies that employ Alaska residents. The state might have to extend this kind of tax break to ALL companies doing business in Alaska, and might have to reinstitute the state income tax to make up the subsequent loss in revenues.
3. Allow more activities (seismic exploration, exploratory drilling) to take place year-round. This action could help foster a more stable Alaska work force instead of tending to favor the short-term importation of outside workers for lower wages. Environmental trade-offs must be considered. We would still want to enforce appropriate mitigating measures and to encourage development of new technology.
4. Require persons holding DNR leases, permits or contracts to pay prevailing wages for the area. This would make the jobs more attractive to Alaskans. The determination of the prevailing wage and enforcement of the provision in an area could be difficult and time-consuming.
5. Make oil industry training programs more accessible to more Alaskans.
6. Amend AS 38.05.180 to allow for "local hire" incentive credits. We envision a program similar to the exploration incentive credits program. This option would create greater administrative burdens for DO&G and would require further cost/benefit analysis before the decision to implement it is made.

PROBLEMS WITH ALL LOCAL HIRE PROVISIONS:

Local hire provisions could devalue oil and gas leases if bidders believe they may have to pay costs associated with a court challenge of the local hire lease provision.

Strong local hire laws and lease terms will tend to favor the hiring of Alaska union members, who apparently are paid considerably more than the Outsiders currently being hired by subcontractors in the oil industry. Thus, compliance with a strong local hire law would increase operating expenses and reduce the net profits received by the state on net profit leases such as those at Seal Island and Endicott.

Commissioner Esther C. Wunnicke

Page 3

October 31, 1985

Strong local hire provisions could devalue leases to the extent that such clauses increase lessees' labor costs.

If local hire provisions end up in court and the state loses, the state will not be able to recoup the lower bonuses paid initially because of local hire requirements in the leases.

Inexperienced workers on exploratory rigs could create the potential for environmental and safety hazards. This could increase potential for oil spills and similar problems in areas such as the Beaufort Sea.

If effective, a strong local hire provision would severely restrict the ability of employers to hire workers at competitive wage rates. This is apparently the reason that local hire has strong union support. The union's ability to exercise market power over wage rates would be greatly enhanced by the enforcement of local hire provisions.

High wage rates, relative to the "lower 48," have been an important factor retarding (non-petroleum) economic growth in Alaska. Unless higher wages are accompanied by higher productivity, they just increase the cost of doing business relative to other states. This higher cost retards the growth of both export markets and local industries. Economic growth and diversification would be inhibited. Policies that increase the cost of doing business in Alaska reduce employment opportunities. This outcome would be contrary to state policy which encourages growth and diversification.

Enforcing strong local hire provisions on state funded projects just means the projects will cost more; the economic benefits will not be enhanced. When the oil dollars begin to decline dramatically, wage levels in the public and non-petroleum private sectors must substantially decline if Alaska's economy is to diversify and grow.

The cost of enforcing local hire provisions must be considered in determining whether the enactment of such provisions will truly benefit the state. Local hire provisions are worthless without adequate monitoring and enforcement. This would require additional staff and funds in the Department of Labor and in any other department that is involved with local hire.

Attachment

KO/04910

ARTICLE XVI

PREFERENTIAL HIRING

Purchaser agrees to hire and employ Alaska residents and Alaska companies to the extent they are available, willing and qualified for all work performed in Alaska under or in connection with this Agreement, including but not limited to construction and operation of facilities to refine or otherwise use the Royalty Oil. As used in this Agreement "Alaska resident" means an individual who has resided in the State for one year at the time of hiring or employment and "Alaska companies" means those companies who are incorporated in the State of Alaska or whose principal place of business is in Alaska. Seller acknowledges that under the arrangements initially contemplated under this Agreement, Purchaser Chevron will not be performing work in Alaska under or in connection with this Agreement.

If this provision is determined to be unconstitutional by a court of competent jurisdiction, then Purchaser agrees to hire and employ Alaska residents and Alaska companies to the extent such preferential hiring is determined to be constitutional.

EXXON COMPANY, U.S.A.

POUCH 8801 • ANCHORAGE, ALASKA 99502-0601 (907) 561-5331

ALASKA OPERATIONS
WESTERN DIVISIONRICHARD H. WEAVER
OPERATIONS MANAGER

May 8, 1985

Senator Arliss Sturgulewski
Alaska State Legislature
Pouch V (MS 8100)
Juneau, Alaska 99811

Dear Senator Sturgulewski:

Exxon has certain serious concerns with Senate Bill 271.

First, I would point out that Exxon supports the concept and practice of local hire, and has traditionally employed a high percentage of local residents (as defined by the statutes) in its operations. Since 1980, 93% of new hires into our Alaska Operations have been local hires with a trend toward an even higher percentage since 1981. To the best of our knowledge, other oil companies follow similar practices.

Our concerns arise from the very findings which purport to justify the passage of the bill. We believe the findings of the legislation incorrectly identify a primary contributing factor to unemployment in the state to be the failure of the resource extraction industry to employ state residents. This finding is not based upon fact. I believe that your committee will find, upon review of Alaska's employment statewide, that the performance of oil companies with respect to local hire is among the best in Alaska's private sector.

I would urge your committee to conduct careful review of the proposed legislation to determine the immediate and future impact of the proposed law. I would specifically urge you to address:

- o Whether there is in fact need for legislative action in this area.
- o Whether there is basis for passage of a bill directed at one industry. The present bill is, in our view, discriminatory toward the oil and gas industry without justification. Industries that likely have much higher non-resident hire ratios, such as fishing and tourism, are not addressed in the bill.
- o Whether this bill will create unacceptable administrative and associated financial burdens for the state and industry. The fiscal impact of implementing this bill does not seem to have been considered.

- o The potential for bureaucratic abuse.

Specific provisions of the bill which will in our view create the problems just addressed are:

- o Sec. 38.45.030 Resident Hire Requirements

- (b) This subsection does not incorporate objective legislative standards for the determination by the Commissioner of Labor of the amount of work that must be performed by qualified residents. It imposes substantial burdens on lessees to familiarize the Commissioner with the nature of work to be performed in exploring for and developing natural resources from state lands; this effort would require a detailed review of each job to be filled. Despite this imposition, there is no express provision for administrative review of the Commissioner's decision.

- (c) This subsection could result in the imposition of new lease or unit requirements on parties to existing leases or units on account of later amendments to this chapter or the regulations.

- (d) This subsection imposes specific recruiting methods and further requires employers to obtain permission from the Commissioner of Labor for each non-resident hire. This requirement could result in significant delays in the exploration and development of state leases.

- o Sec. 38.45.040 Reporting Provisions

This section could result in onerous reporting burdens.

- o Sec. 38.45.060 Regulations and Hearings

- (b) This subsection imposes the requirement that every rejected applicant or terminated employee is entitled to a hearing upon request. This requirement will result in hearings of frivolous claims. Further, this subsection creates the unwarranted inference that each failure to hire a resident or termination of a resident has a discriminatory purpose.

- (c) This subsection authorizes the Department of Labor to carry on burdensome investigations and hearings without probable cause to believe that a violation has occurred or that the employer is not in compliance with this chapter.

o Sec. 38.45.070 Penalties

The penalties provided by this provision are far in excess of the types of penalties imposed for other types of employment discrimination. Many of the penalties, such as increased rents, are unrelated to the actions which gave rise to the proceeding. Subsection (c) would require leasees to renegotiate all existing contracts for services, labor, or materials in order to insert provisions on Alaska hire.

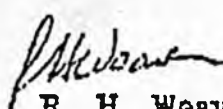
o Sec. 38.45.090(2) Definition

This definition expands the scope of the meaning of "natural resource project on state land" far beyond its ordinary meaning. It appears to require Alaska hire for all contracts and activities related to lease exploration and development, including consulting agreements and construction contracts for work to be done outside the state, lease and unit administration, negotiation of unit agreements, and other activities which may not normally be performed in Alaska. This broad applicability was held to be unconstitutional in Hicklin v. Orbeck, 437 U.S. 518 (1978).

May I also direct your attention to the administrative burdens and costs which the bill would impose on the state of Alaska and the companies that carry out resource development. The Departments of Labor and Natural Resources will have extensive new responsibilities to fulfill, and they will be required to expend considerable financial and human resources in order to carry out the letter and intent of the law.

In conclusion, let me reaffirm that Exxon has been and will continue to be supportive of the practice of local hire. We urge the Committee not to move this bill until it has had time to carefully consider the potential impacts of the bill, the burdens it will place on both the State and the affected industries, and its very constitutionality.

Very truly yours,


R. H. Weaver

RHW/427/dag

SOHIO ALASKA PETROLEUM COMPANY
CONTRACTING ACTIVITIES

*Frank
Horn
Koval*

◦ CONTRACT COMMITMENTS

| | 1984-1985 (\$MM) | | <u>Total</u> |
|----------------------------|----------------------------------|--------------------------------|--------------|
| | <u>Alaskan Contractors</u> * | <u>Outside Contractors</u> | |
| Drilling | 235 (99%) | 3 (1%) | 238 |
| Production/Operations | 167 (99%) | 2 (1%) | 169 |
| Construction | 330 (80%) | 83 (20%) | 413 |
| Engineering/Administrative | <u>17 (11%)</u> | <u>132 (89%)</u> | <u>149</u> |
| TOTAL | 749 (77%) | 220 (23%) | 969 |

* Alaskan Contractors are defined as those contractors operating in Alaska who have established significant assets/resources and continue to re-invest earnings in the State.

◦ ALASKAN CONTRACTOR/RESIDENT HIRE INFORMATION

◦ DRILLING

All rig contracts awarded over the last three years have been committed to contractors with long established Alaskan operations. Four drilling rig contracts to meet Prudhoe Bay Unit requirements for the next two years are currently active on the North Slope. Contractors report rig crews comprising over 90% Alaskan residents. The two major rig contracts for the Endicott Field have commitments from the Contractors to utilize 100% Alaskan resident crews. Overall these six rig contracts represented future expenditures in excess of \$200MM. In addition, Sohio is presently soliciting bids from Alaskan firms for a workover rig. All bidders have been advised that Alaskan hire plans will be a significant factor in the evaluation of the proposals.

Well Service Contracts (wirelining, cementing, logging, etc.) totaled over \$100MM during 1984-1985. With the exception of cementing services, all contractors report over 95% Alaskan resident hire. An implementation plan has been developed to improve the resident hire performance of our cementing contractors.

° PRODUCTION/OPERATIONS

Statistics noted above demonstrate that Production/Operations oriented services (labor, maintenance, catering, security, etc.) have been awarded to asset-based Alaskan firms, many in conjunction with joint ventures among Alaskan Native corporation at Sohio's urging.

Future requirements over the next two years will be handled utilizing several multi-year contracts. Current bid exercises strongly encourage the use of Alaskan resident hire (See Attachment A) and bidders are advised that it will be a significant factor in the evaluation of their proposals. Additionally, local hire clauses are being included in the actual Contract (See Attachment B) and contractors are required to periodically report results.

° CONSTRUCTION

Essentially all construction contracts awarded to date for Prudhoe Bay Unit work employed union contractors in conjunction with the Prudhoe Bay Project Labor Agreements. Hiring practices among all contractors have been as required by union call-out practices.

For 1986-1987, Sohio has committed to award 700,000 manhours of Prudhoe Bay construction to two union contractors in conjunction with the sale of Sohio Construction Company. Both contractors have strong Native corporation associations through joint ventures or partnerships.

The balance of the projected Prudhoe Bay manhours (beyond 700,000) will be bid on a merit-shop basis with provisions in the Bidding Documents to encourage Alaskan-hire policies among contractors. Contractors will be required to report results on a regular basis.

On Endicott, all contracts continue to be bid on a merit shop basis. To date, Contractors report that 87% of all employees are Alaskan residents. Additionally, work bid and awarded in conjunction with North Slope module installation and pipelines will contain similar clauses to those shown on Attachments A and B regarding local hire.

° ENGINEERING/ADMINISTRATIVE SERVICES

Engineering services in the past have been performed predominately in the Lower 48 based on the availability of resources and economics. In the future Sohio intends to perform more local engineering.

3. Bidding Conditions

In addition to examination of the Bid Documents, each prospective bidder shall make whatever other arrangements are necessary to become fully informed regarding all existing and expected conditions and matters which might in any way affect the cost or the performance of the work. Any failure to fully investigate such conditions and matters shall not relieve the bidder from responsibility for estimating properly the difficulty or cost of successfully performing the work.

4. Bidder's Modification and Withdrawal of Bids

A bidder may, by written request without prejudice to itself, modify or withdraw its Bid provided that the request is received by Sohio prior to the Bid Due Date at the address to which bids were to be submitted. Provided further, that in case of a telegraph request, a written confirmation thereof over the authorized signature of the bidder be received by Sohio at the address to which original bids were to be submitted within three (3) calendar days after the Bid Due Date. Following withdrawal of its Bid, the bidder may submit a new Bid, providing it is resubmitted prior to the Bid Due Date.

5. Award of Contract

The successful bidder will be notified of the award of the work in writing and will be expected to properly and promptly execute a contract, the form of which will incorporate the format as attached hereto as Sample Contract. The execution of the contract by the awardee shall take place not later than ten (10) days after receipt of said contract, but in any event prior to the commencement of the work. Additionally, the Contractor will be required to submit the certificates of insurance at the time the contract is executed. Failure of the Contractor to execute the contract and submit the above insurance certificates will cause Sohio to suffer damage, the amount of which is difficult, if not impossible, to ascertain, and Sohio shall therefore be entitled to declare a material breach of the contract by such Contractor, and to award the contract to another bidder in accordance with the provisions of the contract documents.

6. North Slope Labor Utilization

Sohio Alaska Petroleum Company is committed to the use of local residents of the North Slope whenever possible. Therefore, the contractor shall prepare and submit a detailed narrative describing how Alaskan and, more specifically, North Slope resident labor would be recruited and employed. Your response to this clause is considered important and as such will be a factor in the evaluation of your proposal.

17. Direct Wage

Contractor shall not change the direct wage paid to its employees provided hereunder, nor the billable rates, without prior written consent of Operator's Administrative Representative via Amendment to this Agreement.

18. Local Hire

Sohio Alaska Petroleum Company is committed to the use of local residents of Alaska, and more specifically the North Slope, whenever possible. Therefore, Contractor shall make every reasonable effort to recruit and employ North Slope resident labor under this Agreement. If North Slope residents are not available, Contractor will nevertheless make every effort to provide employees who are Alaskan residents. Contractor will be required to report, on a periodic basis, the results of these efforts.

II. COMPENSATION

As total consideration for all work performed and for services rendered hereunder, Contractor agrees to invoice Operator and Operator agrees to pay Contractor in accordance with the following:

1. Payment Schedule

All work performed and/or services rendered hereunder shall be in accordance with the Rate Schedule set forth in Attachment 6 hereto.

NO PAYMENT SHALL BE MADE FOR ANY SERVICES RENDERED WHERE SAID SERVICES ARE NOT SPECIFICALLY INCLUDED IN ATTACHMENT 6.

2. Limitation of Cost

Nothing in this Agreement shall obligate Contractor to take any action which will cause the amount for which Operator will be obligated hereunder to exceed the sum of \$_____ and Operator shall not be obligated to pay Contractor on account of any services furnished hereunder any amount in excess of such sum provided, however, that this sum may be increased by Operator solely at its discretion by amending this Agreement. Contractor shall advise Operator in writing when costs incurred under this Agreement are equal to 75% of the aforementioned sum.



THE ALLIANCE

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

MAY 07 1985

Senator Arliss Sturgulewski
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

May 3, 1985

Dear Senator Sturgulewski:

This morning, the directors of the Alaska Support Industry Alliance unanimously adopted the attached resolution in support of the practice and concept of "local hire".

As you will find, the resolution notes that job opportunities exist in all industries operating in Alaska, including government, and that qualified Alaska residents should be given preference in filling those openings. The statement of policy also emphasizes that incentives to encourage public and private sector employers to reach out to qualified Alaska residents would create a positive business climate which, in turn, will serve to give momentum to additional economic development opportunities.

As your committee deliberates the committee substitute for Senate Bill number 271, we encourage you to incorporate these policy concepts into the final version. Meanwhile, we offer the following observations on the bill you will have before the committee next Wednesday.

1. Sec. 38.45.020 (1) & (2) find that the Alaska economy has historically been "unstable". On the contrary, the Alaska economy has been rather vigorous, growing at an annual rate of 6.5 percent over the past 15 years. Although it has slowed somewhat during the decade of the 80s, it must be remembered that the base is substantially larger and that an annual growth rate of 6.0 percent still must be considered vigorous. Moreover, since the lion's share of the Alaska economy is comprised of government and mining (the petroleum industry in particular) perceptions that Alaska's economy is "unstable" ought to be reconsidered.
2. Subsection (9) of that section points to a "trend towards hiring nonresidents". We have tried to develop some data which might substantiate this statement but have not yet been able to do so. Indeed the State Department of Labor cannot provide verification of the statement at this time either. Our impression of the trend is away from the historic requirement to look for qualified

Alaska Support Industry Alliance

... for responsible economic development

Milton Byrd - President
Frontier Companies of Alaska

Ann Curtis - Vice President
Crowley Maritime

Charles F. Becker - Vice President
Brown & Root, Inc.

William D. Bennett - Secretary
Perkins, Cole, Stone,
Olsen & Williams

Val Molyneux - Treasurer
Veco, Inc.

Bill Bettes - Director
Pingo Corporation

Randy Goodrich - Director
Executive Travel Service

Roger Haxby - Director
Waukesha Alaska Corporation

Joe Mathis - Director
Universal Services, Inc.

Walt Ratterman - Director
Pacific Industrial Company

Jack Thompson - Director
Air Van Lines, Inc.

William F. Webb - Director
Arctic Hosts, Inc.

Senator Sturgulewski
Page two
May 3, 1985

help outside Alaska. Although leakage in the economy still does occur, the accelerated pace of import substitution coupled with an average increase of 13,500 new jobs per year over the past four years would seem to point toward a reversal of the trend to go "outside" for qualified employees. From a practical perspective, it is uneconomic to do so.

3. Subsection (11) of Sec. 38.45.020 appears to be a warning directed at Alaska employers that if state residents are not given employment opportunities, the tax code might be used as a tool for penalizing those employers. We are sure that state policies favoring a stable level of taxation are based on solid concepts of economic development principles as opposed to the interpretation which some might give to the manner in which this finding is stated.
4. In general, we would encourage you and members of your committee to accentuate the positive aspects of the Alaska economy and to eliminate some of the more onerous tonalities contained in the draft bill.
5. Sec. 38.45.030, as written, implies state imposed quotas and determinations which might prove to be in conflict with federal EEO statutes and/or constitutionally indefensible.
6. Sec. 38.45.050. The committee might want to discuss the applicability of the bill to recipients of state loans for business development.
7. Sec. 38.45.070. We would hope the committee would devote considerable time to an analysis of the negative consequences stemming from enactment of penalties as severe as those are which are set forth in this section. Shutting down business operations, blacklisting, fines which appear to punish rather than to elicit compliance, are not, in our opinion, conducive to fostering a positive business climate in Alaska.
8. Finally, as we indicated earlier, all Alaskan employers need to be aware of the benefits attendant to employment of Alaska residents. Sec. 38.45.090 (2) singles out the oil and gas, mineral and timber industries, along with their support industry network.

Thank you for the opportunity to present our perspective on this important issue.

Sincerely,

William Webb

William Webb
President

Enclosure

WW/bs



THE ALLIANCE

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

RESOLUTION IN SUPPORT OF THE PRACTICE AND CONCEPT OF "LOCAL HIRE"

WHEREAS, consistently high levels of unemployment have been endemic in Alaska's socioeconomic history, and

WHEREAS, these structural and cyclical dislocations have been substantially ameliorated through the economic development initiatives which have occurred over the past two decades, and

WHEREAS, despite these major impacts on the Alaska labor force, unacceptable levels of unemployment remain, and

WHEREAS, immediate and future prospects for economic development opportunities exist in . . .

- * the petroleum industry, as it refocuses its attention towards the promise off Alaska's coastline;
- * the hard-rock mining industry, as world-scale operations lay at the threshold of development;
- * the visitor industry, a happy product of sophistication in the transportation, services and trade industries, as campaigns continue to spur increases in the number of tourists choosing Alaska as a destination;
- * the fishing industry, as new concepts in surimi production and marketing open up the enormous potential attendant to bottomfish harvesting and as "fish and chips" diplomacy prods profitability of Alaskan joint ventures;
- * the finance, insurance and real estate industries, as our population continues to expand and more people choose to invest in opportunities in Alaska rather than "Outside"; and

WHEREAS, it is economically and sociologically prudent that qualified Alaska residents in search of employment should be given preference for jobs in these industries and others.

Alaska Support Industry Alliance

... for responsible economic development

Milton Byrd — President
Frontier Companies of Alaska

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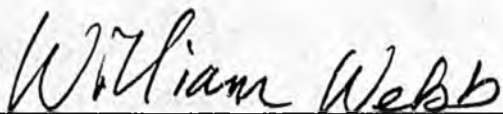
William F. Webb — Director
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THE ALLIANCE

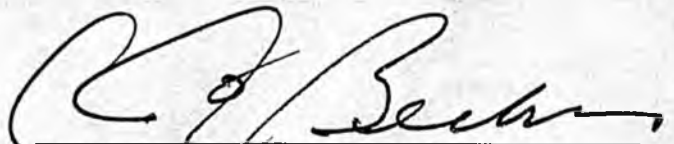
NOW THEREFORE BE IT RESOLVED, that the Alaska Support Industry Alliance hereby supports the practice and concept of providing employment preference to qualified Alaska residents.

BE IT FURTHER RESOLVED, that the Alliance calls upon the leaders of Alaska's prime industries and their support network of industries and government, to institute practices and policies which are designed to achieve this objective.

BE IT FURTHER RESOLVED, that the Alliance does hereby call upon the leaders of government in Alaska to develop incentives to facilitate local hire practices and which, in the process, serve to create a positive business climate in the state which will also generate added opportunities for Alaska and Alaskans.



William Webb, President



Chuck Becker, Vice President

This third day of May, Nineteen Hundred and Eighty-Five.

Bill No.

Committee Substitute for Senate Bill
No. 271 (L&C)

Date May 7, 1985

Title

"An Act requiring resident hire on certain
natural resource projects on state land;
and providing for an effective date."

Contact:

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

This bill establishes a resident hire preference for all employment on natural resource projects on state land.

Under the bill, the Department of Labor would be primarily responsible for:
(1) establishing resident hire requirements for each project; (2) referring qualified residents who are seeking employment; (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 natural resource 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 natural resource 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 Committee Substitute for Senate Bill 271, we would recommend additional amendments, as follows:

1. Add a new section to provide that the hiring preference be extended only to unemployed or underemployed persons or to persons who have completed a job-training program.

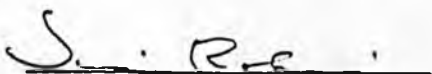
This would enhance the constitutional defensibility of this bill inasmuch as it would then directly focus on the unemployment problems set out in the legislative findings section of the bill (38.45.020).

2. Amend Sec. 38.45.060(b) to provide the Department some flexibility in the appeal process. As written, this section would require the Department to hold a hearing every time one is requested.

The Department would prefer to institute a "review" process and only hold hearings as appropriate.

Attached are line-by-line amendments which would incorporate the Department's recommendations.

APPROVED:


Jim Robison, Commissioner
Department of Labor

POSITION PAPER/Department of Labor

Department of Labor
Proposed Amendments to
Committee Substitute for Senate Bill 271 (L&C)

1. Add a new Section 38.45.030 to read:

Sec. 38.45.030. ELIGIBILITY FOR PREFERENCE. (a) The Department of Labor shall certify a person as eligible for a hiring preference under this chapter if the person is a resident, and

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

(2) is unemployed and has registered with a public or private employment agency;

(3) is underemployed or marginally employed as determined by regulations adopted by the department; or

(4) has completed a job-training program approved by the department.

Note: Present Sections 38.45.030-38.45.100 would need to be renumbered, as well as any statutory references included in the Sections.

2. Insert the term "eligible," before the term "qual-" in line 25 on page 3.
3. Insert the term "eligible," before the term "qualified" in lines 12 and 13 and before the term "residents" on line 15 of page 4.
4. Amend line 16 on page 4 to read:

"approve the hiring of residents who are not eligible for preference or nonresidents for the balance of the request."
5. Amend line 7 on page 5 to read:

30 days after the rejection or termination, request a review by
6. Change the word "shall" in line 10 of page 5 to "may"

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

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

April 23, 1985

The Honorable Joe Josephson
Alaska State Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: Senate Bill 271

Dear Senator Josephson:

In response to your request for elaboration on our position paper on Senate Bill 271, the Department of Labor proposes the following amendments to the bill:

- 1) AS 38.45.030(d) should be amended to read: "An employer subject to the resident hiring requirements under this chapter may request the Department of Labor to assist in locating qualified and available residents. Upon receipt of such request, the Department shall refer an appropriate number of qualified and available residents. If the Department is unable to refer a qualified and available resident, it may approve the hiring of a nonresident."
- 2) AS 38.45.050(a) and (b) should be combined into a single section to read: "The resident hiring preference in this chapter applies to all oil and gas projects on state land. The Department of Labor shall determine the extent of the preference under AS 38.45.030. The preference applies only to employment that is performed directly for an employer."

After further evaluation of the fiscal and legal impact of Senate Bill 271, we believe that having the Department of Labor establish resident hire requirements for each covered project would serve to more closely tailor the preference requirements to the underlying statutory purposes. In addition, since the Department would establish individual hiring requirements tailored to each oil and gas project on state land, we do not believe there should be any minimum monetary threshold to trigger the hiring preference. We also think that the cost of establishing such a threshold through a lengthy cost-benefit analysis by regulation outweighs any benefit to be gained from such a procedure.

- 3) AS 38.45.060(b) would require the Department of Labor to hold a hearing within 10 days of receipt of a request from any person rejected or terminated from oil and gas employment. Because of the time

April 23, 1985

necessary to investigate a complaint and prepare for a hearing, as well as the due process considerations involved, it may be unrealistic to impose a 10-day hearing requirement. The Department recommends a 20-day period as a more realistic and reasonable timeframe.

4) With respect to AS 38.45.070(b)(3), the Department recommends that employers who willfully fail to comply with resident hire requirements on oil and gas projects on state land be barred from state and local contracts for a period of at least three (3) years. We suggest language similar to AS 36.10.090 which establishes a 3-year debarment period for resident hire violations on public construction projects.

5) Because of the constitutional requirement that a resident preference law must be "closely tailored" to address the underlying legislative purposes, the Department recommends that the definition of "resident" in AS 38.45.090(3) be expanded into the term "qualified and available resident." New subsections (C) and (D) would be added to AS 38.45.090(3) to read as follows:

"(C) possesses the requisite work qualifications, as evidenced by education, training, skills or experience; and
(D) is either unemployed or underemployed."

We appreciate the opportunity to comment on this important piece of legislation. Please let us know if we can be of further assistance.

Sincerely,


for Jim Robison
Commissioner

cc: Michael Thill
Senate Labor Commerce Committee

~~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

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

1. The Legislative Findings:

- a) The simple statement is, the Legislative Findings are faulty and do not support the proposed Legislation.
- b) Finding (2), i.e., chronic unemployment breeds severe social problems, including alcoholism and domestic violence. It is a point which is hard to argue against; however, whether we like it or not, it is worth noting that long term employment on the North Slope has caused the same social problems.
- c) Finding (3) accurately describes the Department of Labor report, but it should be noted that this report covers all business and industry in the State of Alaska to develop support for the need for resident hiring preference. The report in no way deals with the availability of willing and unemployed workers in specific skills.
- d) Finding (4) simply is not correct and the numbers could be developed to discredit this finding.
- e) Finding (5) is still very much opened to question. For example, Dave Rasley, of the Operating Engineers told me a couple of months ago that if he had to furnish five qualified side-boom operators on that day, he could not do it. The same situation applies to high pressure pipeline welders. Reliable data in respect to willing and qualified workers in skills required in the industry has, to the best of my knowledge, not been developed. And, as mentioned earlier, certainly is not a part of the recent study by the Department of Labor.
- f) Findings (6 and 7) are eye wash, which again are not significant in the question being considered. The industry has made substantial use of the voc-ed facilities, and furthermore, at least Sohio has made substantial donations of equipment to voc-ed training in the state.

These points can easily be confirmed by the people in the administration working with vocational education. I would suggest, in this respect, that contact be made with Jerry Hiley and/or Karen Ryals in the Department of Education. I believe they will agree facilities are being used as funded.

- g) Finding (8) again, cannot be supported by facts--where is the proof?
- h) Finding (9) is another complete fabrication--at least in respect to Sohio. I am not aware and I doubt that any other company in the industry gave such assurances.

- i) In summary, we are left with what might be considered one valid legislative finding, i.e., (2) which hardly supports eight or nine pages of legislation.
2. In respect to eligibility for preference; since the key element to determine residency is intent to stay in the state, we have an impossible determination to make; and furthermore, any forced commitment in this respect violates all kinds of freedom acts.

Section (3) refers to under-employed or marginally-employed as an eligibility preference, but will be determined under regulations adopted by DOL and once again, is purely subjective judgment which would be open to challenge, and there is no doubt in my mind that challenge will come.

3. Section 38.45.040 (a) states "an employer may not discriminate against qualified residents in employment on a natural resource project on state land." This flies in the face of the (c), (d) and (e) provisions which were added.
4. Section 38.45.040 (b), is of course, our management right argument. This turns to the Commissioner of Labor, decisions which must be made by the employer.
5. Provision (f), starting at the bottom of page 4, is completely redundant since I have never known a contract to be issued by Sohio which does not require the contractor to be in compliance with all state and federal laws and regulations, nor have I ever been aware of a contract of any nature, whether in the oil business or otherwise, which does not carry this provision.
6. Provision (g) is once again, a subjective matter, which in the first instance, is the responsibility of DOL to find and to screen qualified residents in needed skills who are willing to work the employer's hiring need.

Considered in total, this paragraph means that a non-union employer could request from the Department of Labor a skill and qualification which is only available from a union hall. This means if that individual from the union hall will not accept the work and working conditions offered by the non-union contractor, a non-resident can fill the job. I'm sure this point is not well understood or publicized by those promoting local hire.

7. The balance of the Act involving penalties, et cetera, makes the appeal procedure an open invitation to literally hundreds of individual lawsuits which could be filed for a number of reasons. Of course, the penalties are excessive in respect to the intent of the law and would result in automatic court challenge by employers.

8. Other Considerations

- a) What are the provisions of AS 36.10.005 relating specifically to employment for natural resources on state land; are there any other similar statutes dealing with other than natural resources?
- b) What information does the State have in respect to Alaskan residents who have worked outside of Alaska for brief or extended periods while maintaining residency in Alaska?
- c) How many unions have "pass-through" provisions?
- d) What is the status of an employee who has lived and worked in Alaska for a number of years and made a personal choice to move out of the state while maintaining his job in Alaska, but at the same time registering to vote (for example) in his new domicile?
- e) What federal laws currently in effect are being violated by the provision of this Act?

MAY 07 1985

C. R. Elder, Jr.
2042 Crataegus
Anchorage, Alaska 99508

May 1, 1985
CC-1386

Senator Arliss Sturgulewski
Pouch V
Juneau, Alaska 99811

Dear Arliss:

I am sending this personal letter to some legislators that I consider friends and more than acquaintances. The only connection to Sohio is my many years of dealing as an officer of the corporation with its top management and Board of Directors on budget matters. From this experience I am familiar with the factors involved in their thought process as they approach a final approved annual operating and capital budget--and therein lies my concern.

What I am about to say is not new to you, but often is listened to with tongue in cheek because of the perception of the credibility of the "Big Oil", which when surveyed, alternately falls just above or just below the credibility of a used car salesman.

Many of us in the industry have a problem understanding a reason for this reputation--perhaps its a throwback to the Rockefeller days, and subsequent gyrations of a few irresponsible so-called members of the oil industry--unfortunately the rest of us in the industry must live under their shadow.

It is for this reason I am laying my personal credibility on the line when I express some very specific concerns as an Alaskan citizen who has an interest for the state's welfare far beyond that of just an "Oil Johnnie".

The top management of an oil company each year finds themselves in a position you will recognize, i.e., far greater request for budget funds than the amount of discretionary money available. This situation exists even in the largest companies.

There is no automatic allocation to departments or business segments and the primary factors considered for approval of a capital project are (1) its compatibility and compliance to the Corporation long range goals and objectives, (2) the rate of return on the investment proposed, and (3) an analysis of the risk associated with the project over both the long and short term.

In the analysis of the risk associated with the capital investment is consideration of the political climate and stability of the state involved in respect to taxation, regulation, and discriminatory legislation. This was an early problem in Alaska, and has reappeared in this session in the form of separate accounting and the proposed Alaska hire Bill. There also seems to be an attitude of the state to maintain its "standard of living" by the consideration of even other forms of taxation and control.

Insofar as exploration and production is concerned, we from Alaska will have to compete for funds not only from our other businesses, but also for capital projects of other production activities in the Lower 48 such as the Gulf Coast, the Anadarko Basin in Kansas, Oklahoma, and the Rocky Mt. Overthrust (to identify only a few areas of our competition for capital funds). A press release dealing with our recent discoveries in the Gulf of Mexico is attached to give you a feel of areas which will require substantial expenditures, perhaps at our expense, if the corporate management feels a lesser political risk in these areas.

The action of the legislature and the administration can greatly impact the analysis of risk for a project, and in view of the prospects in the Lower 48, we in Alaska may find our ability for project approval greatly diminished--particularly as we move to the "marginal" fields which are extremely sensitive to both capital and operating cost, and in and of themselves carry a high factor of risk--al la Mukluk.

Sohio has never supported the unrealistic position that if the state does not treat us right, we will take our marbles and go home. The development which has already occurred will keep us in Alaska for many years, but we also must continue a healthy exploration and development program in the state.

In summary our ability to compete for Sohio's capital and operating funds truly lies in your hands to a greater degree than you may realize.

Thanks for your time in wading through this letter--but I am scared.

Sincerely,



Charrie Elder

sv

Attachment

cc: Governor Sheffield

P. S. I have also attached the press release concerning Sohio's first quarter earnings.

FOR IMMEDIATE RELEASE

**SOHIO
PETROLEUM
COMPANY**

Contact: Richard Wheatley
(713) 552-8817

Houston, Texas, April 25, 1985 -- Sohio Petroleum Company today announced plans to develop an oil and natural gas discovery on its East Breaks Block 165 lease in the Gulf of Mexico, about 100 miles south of Galveston, Tex.

"Three exploration wells have been completed to date, and the third exploration well confirmed the discovery to be commercial," said Sohio Petroleum Company President David D. Lybarger.

Lybarger said a 40-well drilling and production platform, designed for installation in about 860 feet of water, has been ordered from McDermott Inc. "The platform is scheduled for installation in 1986, and production should begin in early 1987," Lybarger said.

Initial production facilities are designed for up to 20,000 barrels of oil per day and 50 million cubic feet of gas per day.

Sohio plans future exploration drilling from the platform to test additional fault segments.

The discovery well, in 960 feet of water, was drilled in mid-1984 to a total depth of 12,386 feet. It recovered oil and gas from wireline formation tests of several intervals.

- more -

SPC - East Breaks Block - 2.

A second well, located southeast of the first well in 996 feet of water, reached a total depth of 11,828 feet and was successful in finding oil and gas in zones similar to those encountered in the discovery well.

A drillstem test of an interval at about 11,400 feet in the second well flowed at a rate of 3,500 barrels of oil per day and 4.5 million cubic feet of gas per day on a 22/64-inch choke with a flowing tubing pressure of 3,850 psi. The oil has a gravity of 33.7-degrees API.

The third well, drilled at a location northeast of the discovery in about 870 feet of water, was recently completed. It was not production tested, but logs and wireline tests confirmed the productive zones.

East Breaks Block 165, a 100 percent Sohio-owned block, was purchased in the August 1983 federal Outer Continental Shelf lease sale for a high bid of \$14,125,000.

Sohio currently has working interest in five offshore production platforms in the Gulf of Mexico, of which it operates two.

Sohio Petroleum Company is the wholly-owned exploration and production subsidiary of The Standard Oil Company (Ohio).

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0864c



THE STANDARD OIL COMPANY (OHIO)
Midland Building
Cleveland, Ohio 44115
(216) 575-5548 - John Andes
(216) 575-3796 - Randy Walthius

For Immediate Release

NEWS

CLEVELAND, OHIO, April 25, 1985 -- Alton W. Whitehouse, Chairman of The Standard Oil Company (Ohio), today reported first quarter 1985 earnings of \$343 million, a decrease of 10 percent from the \$381 million earned in the same period last year. First quarter net income per share, however, decreased only 5 percent to \$1.46 from \$1.54 last year because of fewer shares outstanding as a result of the company's purchases of 12 million shares of its common stock since January 1, 1984.

"Lower petroleum prices and the continued margin squeeze for refined petroleum products, a 34 percent increase in exploration expenses, and higher Prudhoe Bay field production expenses were the primary factors contributing to the earnings decline," Whitehouse said. "In addition, higher net interest expenses and lower earnings from coal operations primarily due to decreased demand adversely affected the quarter. However, partially offsetting these declines were higher crude oil sales volumes due to the conclusion of the redetermination payback period and better results in our industrial products business," he said.

"Petroleum prices began to recover late in the first quarter and profit margins began to improve. The improvement is continuing this month," Whitehouse added.

-more-

1985 First Quarter Earnings - 2.

Petroleum Activities

Operating income (income before interest and income taxes) from oil and gas exploration and production activities decreased to \$716 million for the first quarter of 1985 from \$740 million for the same period last year. This decrease was due primarily to the January 1 price reductions for Alaskan crude oil and higher exploration expenses and production costs, partially offset by higher sales volumes of Alaskan crude oil. Exploration expenses increased to \$175 million from \$131 million last year due primarily to higher dry hole costs and lease amortization.

Net production of Alaskan crude oil increased to 685,000 barrels per day during this year's first quarter from 584,500 barrels per day last year, due primarily to the conclusion of the redetermination underlift payback period on the Prudhoe Bay field and higher production from the Kuparuk field. However, additional Prudhoe production triggered the resumption of payments to British Petroleum for its ongoing net profits royalty interest in the Prudhoe Bay field. In addition, Lower 48 production increased 3,500 barrels per day to 19,800 barrels per day. This increase, largely from the Gulf of Mexico, is the first in many years.

Operating income from refining and marketing activities declined to \$52 million from \$64 million last year as depressed petroleum product prices, particularly during January and February, lowered refined product margins. Earnings for

1985 First Quarter Earnings - 3.

the first quarter of 1985 include income from two months of operations of the Southeastern refining and marketing properties acquired from Gulf Oil Corporation on February 1, 1985.

Non-Petroleum Activities

| | Operating Income (Loss) (Millions of Dollars)First Quarter..... | |
|---------------------|---|-------------|
| | <u>1985</u> | <u>1984</u> |
| Coal | \$ 1 | \$ 21 |
| Metals Mining | (40) | (45) |
| Chemicals | (3) | (2) |
| Industrial Products | 9 | (8) |

Coal operating income for the first quarter of 1985 declined because of lower sales volumes due to decreased demand and higher unit production costs.

Metals mining losses of \$45 million in the first quarter of 1984 decreased to \$40 million in the 1985 first quarter as lower copper production costs more than offset lower sales prices. However, continuing losses that result from adverse market conditions, high labor costs, and antiquated facilities at the Utah Copper Division have caused the company to suspend these operations indefinitely. The suspension process will be carried out over the next four months. Engineering studies of facilities that would increase efficiency and lower costs at the Utah Copper Division are continuing.

-more-

1985 First Quarter Earnings - 4.

Chemicals losses increased slightly due to lower industrial chemicals earnings and start-up costs at the benzene plant which more than offset improved nitrogen chemicals results. The retail agricultural chemicals business lost \$6 million before it was sold in the first quarter of 1985, an amount equal to the loss in the first quarter of 1984.

Industrial products operations continued to improve as the processed minerals sector experienced strong sales of titanium dioxide slag. Industrial products results include expenses to develop new technology and products of \$10 million in the first quarter of 1985 and \$9 million in the first quarter of 1984.

Net interest expense for the first quarter of 1985 increased to \$80 million from \$53 million in last year's first quarter due to higher borrowings and lower capitalized interest.

Capital expenditures for the first quarter of 1985 were \$769 million, including \$315 million for refining and marketing properties acquired from Gulf Oil Corporation. Capital expenditures for the first quarter of 1984 were \$503 million.

#

Highlights

| | Three Months Ended March 31 | |
|--|--------------------------------|----------------|
| | 1985 | 1984 |
| Financial highlights (millions of dollars) | | |
| Revenues | \$ 3,198 | 2,897 |
| Total tax expense | \$ 712 | 677 |
| Net income | \$ 343 | 381 |
| Per share of common stock | | |
| Net income | \$ 1.46 | 1.54 |
| Cash dividends | \$.70 | .65 |
| Average number of common and equivalent shares outstanding (millions) | 235 | 247 |
| Cash provided from operations | \$ 777 | 893 |
| Capital expenditures | \$ 769 | 503 |
| Operating statistics | | |
| Crude oil and natural gas liquids produced (net) - barrels per day | | |
| Alaska | 685,000 | 584,500 |
| Lower 48 states | 19,800 | 16,300 |
| | <u>704,800</u> | <u>600,800</u> |
| Average sales price - per barrel of crude oil | | |
| Alaska | \$ 26.53 | 27.62 |
| Lower 48 states | \$ 27.33 | 29.35 |
| Produced natural gas sold (net) - thousands of cubic feet per day | 99,100 | 97,800 |
| Average sales price - per thousand cubic feet | \$ 2.36 | 2.41 |
| Refinery runs - barrels per day* | 509,100 | 379,800 |
| Refined petroleum products sold - barrels per day* | 535,900 | 391,700 |
| Coal sold - thousands of tons | 3,300 | 3,600 |
| Produced copper sold - thousands of tons | 62 | 97 |

* Certain Gulf Oil Corporation refining and marketing operations were acquired on February 1, 1985 and are included since that date.

Business Segment Data
(Millions of Dollars)

| | Three Months Ended March 31 | |
|--|--------------------------------|--------------|
| | 1985 | 1984 |
| Revenues | | |
| Petroleum | \$ 2,602 | 2,219 |
| Coal | 106 | 125 |
| Metals mining | 85 | 151 |
| Chemicals | 119 | 137 |
| Industrial products | 272 | 263 |
| Corporate and other | 14 | 2 |
| | <u>\$ 3,198</u> | <u>2,897</u> |
| Income before interest and income taxes | | |
| Petroleum | | |
| Exploration and production | \$ 715 | 740 |
| Refining and marketing | 52 | 64 |
| | <u>768</u> | <u>804</u> |
| Coal | 1 | 21 |
| Metals mining | (40) | (45) |
| Chemicals | (3) | (2) |
| Industrial products | 9 | (8) |
| Corporate and other | (33) | (36) |
| | <u>\$ 702</u> | <u>734</u> |
| Capital expenditures | | |
| Petroleum | | |
| Exploration and production | \$ 336 | 365 |
| Refining and marketing | 335* | 9 |
| | <u>671</u> | <u>374</u> |
| Coal | 10 | 7 |
| Metals mining | 29 | 47 |
| Chemicals | 1 | 28 |
| Industrial products | 30 | 10 |
| Corporate and other | 28 | 37 |
| | <u>\$ 769</u> | <u>503</u> |

* Includes \$315 million of properties from the acquisition of certain Gulf Oil Corporation operations.

Alaska State Legislature

FEB 27 1986

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4931



CHAIRMAN
Special Committee on
Telecommunications

DISTRICT 10
BOX 111038
ANCHORAGE, ALASKA 99511
(907) 349-2192

MEMBER
Labor and Commerce
State Affairs
Finance—Subcommittee Administration

Representative H. A. "Red" Boucher

To: Arliss Sturgulewski, Chairman
Senate Resources

From: Representative H.A. "Red" Boucher
Senator Jan Faiks *Red*

Date: February 26, 1986

Subject: Hearings on HB 466 and SB 367

You have no doubt heard about the recent Alaskan Supreme Court decision which struck down the Alaska resident hire law in the Francis case. HB 466 and SB 367, in the opinion of the Attorney General's Office, respond directly to the major objections the Court raised in regards to the current law.

We have been further advised that in order for a new Alaska resident preferential hire law to be put in place and be constitutionally defensible, it is not enough that we show there is high unemployment in Alaska. We have to obtain findings that show unemployment can lead to a host of social problems, such as alcoholism, suicide, poverty, violent crimes, broken homes and families, even insolvency and bankruptcy. Even more importantly, we need to obtain testimony that focuses on outsiders as being a "significant contributing cause" of unemployment in Alaska, and on some other constitutional aspects as well.

We are further caught in a bind of trying to balance the problem of getting a new piece of legislation in place by the end of this session (which has to go through 4 to 6 Committees), against the problem of trying to obtain as much public testimony as possible for the record (so that we can demonstrate to any future court that we did indeed consider the constitutional problems raised).

We thus need to obtain both written (statements, publications, statistics) and spoken input on this issue of resident hire, and attempt in teleconferenced hearings to balance input from expert witnesses with input from private citizens chronicling their individual problems. We would appreciate it very much if you could attempt to strike this balance if your Committee is one of those holding hearings on these two bills.

A lot of the written and published material that is referred to by expert witnesses will not be obtainable until weeks later. We would like to therefore also request your indulgence in entering these various documents into the Committee hearing record as they come in and catch up to the Committee they are in, as they will be extremely critical in providing the basis for any future court cases on resident hire. This may even entail additional public teleconference hearings.

We respectfully request that we be allowed to work with your Committee towards meeting the above goals as the hearings on these bills progress.



Official Business

Alaska State Legislature

Senate

JAN 22 1986

Pouch V
State Capitol
Juneau, Alaska 99811

January 22, 1986

The Honorable Arliss Sturgulewski
Chairman
Senate Resources Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Sturgulewski:

I appreciate your interest in further consideration of CSSB 271, requiring resident hire on certain natural resource projects on state land. CSSB 271 is presently assigned to the Resources Committee.

You have asked me for my views regarding the implications of the January 17, 1986, decision of the Supreme Court of the State of Alaska in Robison v. Francis.

In that case, the Court held that Alaska's local hire law, AS 36.10.010, requiring that work on public work projects be performed almost entirely by Alaska residents, violates the privileges and immunities clause of article IV, sec. 2, of the Constitution of the United States.

The effects of Robison v. Francis on pending legislation are not altogether clear to me. In that case, the trial court made a finding of fact, which the Supreme Court accepted, that

"There is not sufficient evidence to support a finding that nonresident construction workers are a peculiar source of unemployment in the construction industry in Alaska any more than they would be in any other state. The only inference that can be drawn from the record is that nonresident construction workers come to Alaska to work during peak construction periods of time, during which there are more jobs available and less unemployment resulting."

Since it was the State's obligation to demonstrate on the record, by a preponderance of the evidence, that "nonresident construction workers are a peculiar source of unemployment in the construction industry in Alaska", and since that obligation was not met at the trial level, the statute necessarily failed to pass constitutional muster.

The opinion in Robison v. Francis includes a general discussion of the issue of state local hire legislation under the privileges and immunities clause. A fair reading of the opinion suggests strongly that the Supreme Court concludes that the very goal of reducing resident unemployment by "discrimination" against nonresidents is constitutionally impermissible per se, at least in the absence of a showing of economic or social "collapse" such as that shown in the Camden, New Jersey, case (United Building and Trades Council of Camden County and Vicinity vs. Mayor and Council of the City of Camden).

On the other hand, since the requisite factual record was not made, the opinion can also be read as mere dicta (i.e., a philosophical commentary by the Court not necessary to the decision itself, and therefore not considered as guiding judicial precedent).

Areas of uncertainty about the treatment that would be afforded CSSB 271, if enacted, include the following:

1. The invalidated AS 36.10.010 related to state and local construction work; CSSB 271 relates to certain activities on state lands. The scope of AS 36.10.010 is broader and more pervasive than the scope of CSSB 271. The "pervasiveness and intensity" of "the discrimination mandated" informs the degree of judicial deference to the state's status as a market participant acting in a proprietary, rather than a regulatory, role. Thus, the level of judicial scrutiny may be lower under the pending CSSB 271 than was true as to AS 36.10.010. Unlike the invalidated enactment, SB 271 sets no numerical goals or percentages, but instead provides for the determination of resident work goals by the Commissioner of Labor based on the nature of the work, classification of workers, the availability of residents and the willingness of workers to perform the work.

2. It is not clear that the Court gave any consideration to Chapter 69, SLA 1985, which attempted to make retroactive factual findings concerning unemployment conditions in the state. These findings may aid legislation adopted after 1985.

The Honorable Arliss Sturgulewski
January 22, 1986
Page Three

3. The State's ability to make a factual showing is helped substantially by the publication of the Department of Labor report, Nonresidents Working in Alaska, which measured the economic impact of nonresidents on Alaska's economy during calendar year 1984. I also believe we should consider having similar studies performed on an annual basis.

4. As the Supreme Court noted, and as I have stated in support of SB 271, "The preferential hire statute involved in Hicklin was struck down because, among other reasons, the statute was too broad." SB 271 is limited to activities on state property, in contrast to the statute invalidated in Hicklin.

5. Legislative committees are finding that chronic unemployment breeds certain severe social problems such as alcoholism and domestic violence. These findings should be incorporated into a revised version of CSSB 271.

My recommendations for further action on CSSB 271 include the following:

1. Incorporate findings from Chapter 69, SLA 1985, and from the report entitled Nonresidents Working in Alaska. For example, the report found that approximately 71,000 (!) nonresident workers earned \$677 million here in 1984 and constituted 22 percent of all employees.

2. Structure the bill in terms of goal-setting targeted for help to the unemployed, the underemployed, and recent graduates of job-training programs.

3. Include, as noted above, a specific finding linking chronic alcoholism and domestic violence to chronic unemployment, based on data now available to the Senate. Senator Vic Fischer, a member of your committee, is working on this important part of our research.

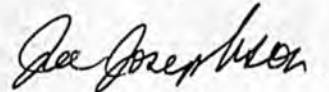
I am requesting that the Legal Services Division of the Legislative Affairs Agency incorporate these suggestions in a revised draft, and I will be pleased to work with you and members of the Committee's staff to incorporate as well any suggestions you may have that would strengthen the legislation and be compatible with its basic goals and objectives.

The Honorable Arliss Sturgulewski
January 22, 1986
Page Four

I am hopeful that the revisions will be ready for consideration soon, and that through the public hearing process, you and our colleagues on the Committee can assist in developing a measure that will help alleviate unemployment among resident Alaskans and the attendant economic and social ills.

With best wishes, I am

Sincerely,



Joe P. Josephson
State Senator

JPJ:rak

cc: Senator Jalmar Kerttula
Senator Victor Fischer
Senator Fred Zharoff

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-485-2400

FEB 28 1986

February 27, 1986

The Honorable Arliss Sturgulewski
Chair, Senate Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Sturgulewski:

As you know, the Department of Natural Resources supports the concept of resident hire and has included stipulations encouraging resident hire in leases for State oil, gas and minerals.

The Sponsor Substitute for Senate Bill 271 would require the Department to incorporate into each new contract, lease, unitization agreement or renegotiation for a contract, lease or agreement for a timber, oil, gas or mineral project on State land, provisions related to compliance with this bill. We defer to the Department of Law concerning the constitutionality and enforceability of this bill and to the Department of Labor concerning the feasibility of developing the necessary employment and resident hire information.

For clarification, we would suggest that a definition of State land be added to Section 38.45.100. DEFINITIONS, as follows:

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

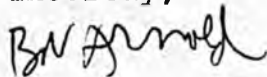
We would also suggest that you consider whether permits for prospecting or other miscellaneous land uses are or should be included in the definition of a natural resource project on State land. The Department issues permits for geophysical exploration, mineral prospecting, and other land use activities.

The Hon. Arliss Sturgulewski -2-

February 27, 1986

We would be pleased to work with members of the Committee concerning our suggested changes to this bill. If we may provide additional information or assistance, please let me know.

Sincerely,



f Esther C. Wunnicke
Commissioner

cc: Senate Resources Committee
Bill Sponsors

NOTICE: This opinion is subject to final correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections may be made prior to permanent publication.

THE SUPREME COURT OF THE STATE OF ALASKA

JAMES ROBISON, Commissioner of)
Labor; ROBERT BACOLAS, Director,)
Division of Labor Standards and)
Safety; DONALD WILSON, Deputy)
Director of the Division of Labor)
Standards and Safety; JAMES R.)
CARR, Supervisor of the Wage and)
Hour Administration; the)
DEPARTMENT OF LABOR OF THE STATE)
OF ALASKA, and the STATE OF)
ALASKA, and the INTERNATIONAL)
ASSOCIATION OF BRIDGE, STRUCTURAL)
AND ORNAMENTAL IRONWORKERS,)
LOCAL 751,)

Appellants,)

v.)

JAMES N. FRANCIS,)

Appellee.)

File No. S-493

O P I N I O N

[No. 3011 - January 17, 1986]

INTERNATIONAL ASSOCIATION OF)
BRIDGE, STRUCTURAL AND ORNAMENTAL)
IRONWORKERS, LOCAL 751,)

Appellant,)

v.)

JAMES N. FRANCIS,)

Appellee.)

File No. S-510

JAMES N. FRANCIS,

Appellant,

v.

JAMES ROBISON, Commissioner of Labor; ROBERT BACOLAS, Director, Division of Labor Standards and Safety; DONALD WILSON, Deputy Director of the Division of Labor Standards and Safety; JAMES R. CARR, Supervisor of the Wage and Hour Administration; the DEPARTMENT OF LABOR OF THE STATE OF ALASKA, and the STATE OF ALASKA, and the INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL AND ORNAMENTAL IRONWORKERS, LOCAL 751,

Appellees.

File No. S-552

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Karl S. Johnstone, Judge.

Appearances: Jan Hart DeYoung, Assistant Attorney General, Anchorage, and Norman C. Gorsuch, Attorney General, Juneau, for State of Alaska, Department of Labor, James Robison, Robert Bacolas, Donald Wilson, and James C. Carr. Allison E. Mendel, Jermain, Dunnagan & Owens, Anchorage, for International Association of Bridge, Structural and Ornamental Ironworkers, Local 751. Ron Zobel, Anchorage, for James N. Francis.

Before: Rabinowitz, Chief Justice, Burke, Matthews, Compton, and Moore, Justices.

MATTHEWS, Justice.
BURKE, Justice, concurring.