

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4493 HCRA HB 538 - HB 550

25



Official Business

Alaska State Legislature

House

P.O. BOX V
State Capitol
Juneau, Alaska 99811

COMMITTEE ON STATE AFFAIRS

March 11, 1988

TO: Community and Regional Affairs Committee

FROM: Representative Fran Ulmer, Chair
House State Affairs

RE: HB 538 "An Act relating to the Alaska Municipal
Bond Bank Authority; and providing for an effective
date."

House Bill 538 extends the authority of the Alaska Municipal Bond Bank.

Section 1

State Aid payable to a municipality which is in default on any bonds held by the Bond Bank shall be paid directly to the Bond Bank.

Section 2

AS 44.85.410(3)(E) allows the Alaska Bond Bank to purchase an obligation of a municipality secured by a special assessment or lease.

Background

According to Perry Davis, Executive Director of the Municipal Bond Bank Authority, the proposed amendment is in response to suggestions that the scope of the Bond Bank be broadened to include bonds for special assessments and other governmental purposes. Current law only allows the purchase of general obligation and revenue bonds.

Special assessment bond financing refers to situations where the bonds are paid by the property being benefitted. For example, if a special service district wishes to build a new fire station and does not want to burden all taxpayers with that debt, the Bond Bank could provide financing for this purpose. Special assessment bond issues tend to be small in amount and the Bond Bank would be a means to finance such debt.

Financing would also be available for equipment leasing. For instance, some communities currently finance equipment at interest rates between 9 and 15 percent. The Bond Bank could finance such debt at a lower interest rate.

February 18, 1988

Fran Ulmer
Chairman
State Affairs Committee
P.O. Box V, C-102
Juneau, AK 99811

RE: Alaska Municipal Bond Bank legislation

Dear Fran,

Last year the Alaska Municipal Bond Bank decided to be more pro-active and had a survey done among the communities to see what new programs they could offer. Two programs were identified.

One program was to have an equipment leasing program to have communities finance their equipment purchases if they so decided through the Alaska Municipal Bond Bank. We found communities were currently financing equipment at an interest rate of 9 to 15% under current market conditions. The Alaska Municipal Bond Bank could perform this function at approximately 7%.

Another program that was desired by the communities was the ability to finance special service districts or as limited improvement districts. A special service district is one where a district wants to have, let's say, a fire station and do not want to burden all of the taxpayers of a municipality with that responsibility. This would give the municipalities the ability to finance, over a twenty-year period, a new fire station if the voters approved it in the district. A limited improvement district is a financing for a one time improvement such as streets in a subdivision if the taxpayers in the district are willing to pay for it. They vote for the improvements and the LID cost is attached to the property payments and is paid off over time.

Because the legislation was late in arriving in the Governor's office and because this subject is not of high political content the bill was not moved. This bill has the unanimous support of the Alaska Municipal Bond Bank Board and all municipalities. It gives them an additional tool to help meet their obligations. I know of no opposition to this bill. There is no fiscal note to the bill for this calendar year because the Alaska Municipal Bond Bank already has adequate reserves. We expect a \$7 million program of each type if this legislation can be passed.

The legislation has two parts. The first is to allow for the offset of municipal aid for any default on municipal debt through the Alaska Municipal Bond Bank for the new programs. These programs are permissive and if they want the advantage of the Alaska Municipal Bond Bank, there is a small price to pay.

Section 2 of the bill allows the Alaska Municipal Bond Bank to purchase "any other obligation of a municipality." Current legislation only allows for general obligation bonds and revenue bond. Leases and Limited improvement district bonds do not fit this definition. By passing this language, the Alaska Municipal Bond Bank would be allowed to purchase the new obligations.

I would like your committee to consider sponsoring this legislation.

Yours truly,


Sterling Gallagher

CHAIRMAN:
GLENDA RHODES

BOARD MEMBERS:
DAVID HOFFMAN
WINTHROP T. HOVEY
HUGH MALONE
MICHAEL B. SALAZAR



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EXECUTIVE DIRECTOR:
PERRY T. DAVIS

ALASKA MUNICIPAL BOND BANK AUTHORITY

March 3, 1988

Mr. Dennis Burns
House State Affairs Committee
P.O. Box V
Juneau, Alaska 99801

Dear Dennis:

Enclosed is a brief description from Eric Wohlforth on the bill you are considering regarding the Bond Bank.

The Board of Directors authorized the adoption of this new legislation, but of course retains full control and authority over any Bonds issued by the Bond Bank.

Sincerely,

Perry T. Davis
Executive Director

PTD/kdn

WOHLFORTH, FLINT & GRUENING

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ROBERT S. SPITZFADEN*
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JANICE COLEMAN GRAHAM**
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BRADLEY E. MEYER
DANIEL PATRICK O'TIERNEY
PATRICK RUMLEY
JAMES A. SARAFIN
JAMES R. SZENDER

*JUNEAU OFFICE
**ADMITTED IN NEW YORK ONLY

March 4, 1988

Mr. Perry T. Davis
Executive Director
Municipal Bond Bank Authority

Re: Alaska Municipal Bond Bank Proposed Legislation
(Our File 3742/0001)

Dear Perry:

You have asked for my comments on Proposed Legislation to expand the purposes of the Bond Bank to purchase any obligations of a municipality for a governmental or municipal purpose. The same proposed bill also provides that State Aid payable to a municipality which is in default on any bonds held by the Bond Bank be paid directly to the Bond Bank.

The legislative changes proposed are in response to the suggestion that the purpose of the Bond Bank be broadened beyond general obligation bonds and revenue bonds to include bonds for special assessments and other governmental purposes. Special assessment bond financing where the bonds are paid by the property benefitted are a customary vehicle for raising funds for limited area purposes in other states. It seems appropriate that the Bond Bank's purposes be extended to permit it to purchase such bonds to assist small municipal financings. Special assessment bond issues tend to be small in amount and the Bond Bank would be an efficient vehicle for providing market access for such debt. Other kinds of financings would be available through the Bond Bank such as municipal tax increment and equipment lease financing. Broadening the purposes of the Bond Bank to permit all governmental or municipal purpose financing would assist the Bond Bank in meeting its legislative mandate of providing assistance to Alaska municipalities to lower interest rates and improve market access.

Very truly yours,

Eric E. Wohlforth
Eric E. Wohlforth

CHAIRMAN:
GLENDA RHODES

BOARD MEMBERS:
DAVID HOFFMAN
WINTHROP T. HOVEY
HUGH MALONE
MICHAEL B. SALAZAR



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EXECUTIVE DIRECTOR:
PERRY T. DAVIS

ALASKA MUNICIPAL BOND BANK AUTHORITY

March 10, 1988

Dennis J. Burns
House State Affairs Committee
P.O. Box V
State Capitol
Juneau, Alaska 99811

Dear Mr. Burns:

Regarding your question on electrical generation purpose, other than diesel-powered generation. As I understand, the Alaska Power Authority did not want the Bond Bank crossing over into its area of operation, they did not mind our doing small diesel generation projects.

Sincerely,

Perry T. Davis
Executive Director

Revenue Bonds. Revenue bonds are bonds payable from money earned by charging the users of a particular facility or service. Examples of facilities or services financed might include water or sewer service systems, electrical utilities, or public buildings that may be supported from leases or other income.

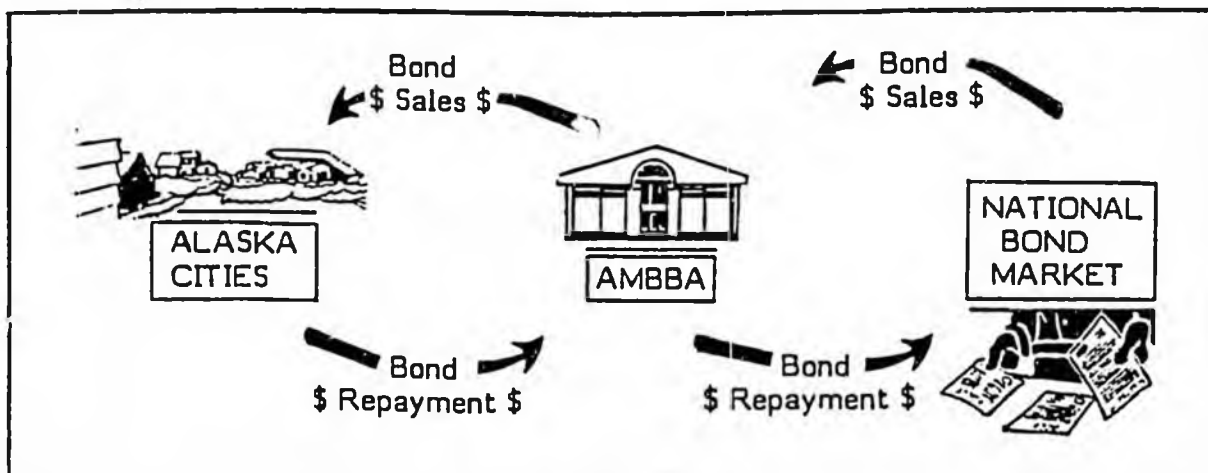
General Obligation Bonds. General obligation bonds are sometimes referred to as G.O. bonds. G.O. bonds are bonds issued by a local government with assurance that they will be repaid by money received from local taxes. The bond is a general obligation of the entire city. The full faith and credit of the city are pledged to pay back the principal and interest. AS 29.47.190 requires voter authorization before G.O. bonds may be issued.

Before entering into the bonding process, the city must employ the professional help of bond council (a bond attorney familiar with bonding practices).

The Alaska Municipal Bond Bank

In addition to the traditional market for municipal bonds, there has been established an Alaska Municipal Bond Bank. The purpose of the bond bank

is to act as a financial backer for smaller Alaskan cities which wish to market bonds. The bond bank sells its own bonds on the national money market and then uses the proceeds of the sale to purchase the bonds of Alaskan cities. Because the bond bank is able to receive a bond rating better than most small municipalities, it can borrow money at a lower interest rate, then pass the savings on to Alaskan cities.



The Bond Bank

General Information

The Bond Bank was established to assist small Alaska communities that would otherwise have difficulty financing capital improvement projects such as schools, sewer systems or public buildings.

It was created because small communities are at a disadvantage in the financial markets. They have low bond ratings; few on Wall Street know anything about their financial condition. Perhaps they never borrowed before and have no bond rating.

The Bond Bank is a public corporation created by State law. It has a legal existence independent of and separate from the State and the full faith and credit of the State is not pledged to secure bonds issued by the Bond Bank; however, the State has pledged its moral obligation to the maintenance of a debt service reserve for the majority of the Bond Bank's bonds.

Operations

Generally the Bank sells its bonds on the national bond market. It uses the proceeds of the sales to purchase the bonds of Alaska cities. The Bond Bank typically collects several bond issues and consolidates them into a single issue which it sells to the national market. This reduces the costs of issuance allocable to each city participating in the bond issue.

Because the Bank has received "A" ratings from the two major bond rating services, it is able to borrow money at lower interest rates than most of Alaska's cities. This low interest rate is passed through to the cities.

As cities pay annual principal and semiannual interest to the Bank to liquidate their debt, the Bank uses these same principal and interest payments to liquidate its debt to its bondholders.

Bonds issued by the Bond Bank are obligations of the Authority and payable only from revenues or funds from the Authority.

Organization

The powers of the Bank are vested in the Directors. The membership of the Bank consists of five Directors: three appointed by the Governor, the Commissioner of Revenue and the Commissioner of Community and Regional Affairs. The three appointees serve four-year terms and must be qualified voting residents of the State.

The Directors elect one of their members as chairman and also elect a secretary and treasurer who need not be Directors. Action may be taken and motions and resolutions adopted by the Bank at any meeting by the affirmative vote of at least three Directors except that no decision to approve an application for a loan shall be made unless at least two of the three public members vote to approve.

The Board of Directors operates in accordance with the Bond Bank Act (AS 44.85), its published regulations and its by-laws.

The Directors appoint an Executive Director to manage the business of the Bank.

The Board of Directors

The Bank's membership is as follows:

Glenda Rhodes—Chairman, Term expires July 15, 1989. Ms. Rhodes is a long-time resident of Alaska, a CPA and Managing Partner of Laventhol & Horwath. She is past president of the Alaska Society of CPAs and served two terms as Alaska's elected member of the Governing Council of the American Institute of CPAs.

Winthrop T. Hovey—Vice Chairman, Term expires July 15, 1990. Mr. Hovey is currently Vice-Chairman of Carr-Gottstein Properties, Inc. and Chief Financial Officer of Carr-Gottstein Co., Inc. He has resided in Alaska since 1974. Prior to arriving in Alaska, Mr. Hovey was employed with Beneficial Standard Corporation in Los Angeles for 25 years.

Michael B. Salazar—Term expired July 15, 1987, however, he continues to serve until he is reappointed or replaced by the Governor. Mr. Salazar is a lifetime resident of Alaska.

an owner of businesses in Ketchikan, and has served on several boards and commissions, including President of the Ketchikan Chamber of Commerce.

Hugh Malone—Commissioner of Revenue, ex-officio Director. Mr. Malone was appointed Commissioner on December 1, 1986. He previously has been the Vice-Chairman of the Alaska Permanent Fund Corporation, the Speaker of the House and Chairman of the Finance Committee in the Alaska State House of Representatives. He has been a resident of the State since 1958.

David G. Hoffman—Commissioner of Community and Regional Affairs, ex-officio Director. Mr. Hoffman has worked as a manager and economic analyst for rural organizations and businesses throughout Alaska and Arctic Canada since 1973. He worked as an Administrative Assistant to the Legislature in 1978 and 1979. He was co-founder and first Executive Director of the Bering Sea Fishermen's Association. From 1983 through 1986 he was co-owner of the management consulting firm D&D Associates Inc.

Management

The Bank has one employee; its Executive Director.

Perry T. Davis—Executive Director. Mr. Davis was appointed by the Directors effective January 6, 1983 and since that date also served as secretary and treasurer of the Bank. Prior to his appointment he was an Investment Consultant. He holds a bachelor's degree in accounting and from 1962-1973 was with Palomar Financial as Executive Financial Vice-President.

Rather than employ staff, the Bank contracts in the private sector for a wide range of professional services. The Executive Director coordinates the activities of these professionals to include bond counsel, financial advisors, underwriters, accountants, auditors, fund trustees and clerical support.

As a matter of policy, bond sale proceeds and municipal debt service payments flow directly between banking institutions. No funds, other than the small operating account, are physically handled by Bank personnel.

Bonds are sold by either competitive bid or negotiated sale depending on market conditions and the objectives of the sale.

The Bond Bank contracts with outside professionals to provide various functions of expertise.

Financial Advisor

Shearson Lehman Brothers Inc.
Foster & Marshall Division

Provides loan analysis service, including recommendations as to adequacy of loan applications, considering credit worthiness, projected capability to repay, and overall effect a proposed loan will have on the credit of the Bond Bank. Assists in preparation of the Official Statements, recommendations as to type and timing of bond sales, negotiations with underwriters and assistance with investment of various funds.

Bond Counsel

Wohlforth, Flint & Gruening

Provides for the preparation of proceedings for the authorization, sale, issuance and delivery of Bond Bank bonds. Prepares series resolutions, notice of sale, assists in preparation of the Official Statement, renders necessary opinions as required, and provides other general legal services required by the Bond Bank.

Trustee/Paying Agent

Rainier National Bank

Acts as custodian of the bond proceeds and supervises their investment uses for the purpose specified in the bond resolutions. The trustee oversees Debt Service Reserve Funds and maintenance of certain coverage ratios required in the contract with the bondholders. As paying agent, makes all necessary interest and principal payments to the bondholders.

③ HB 538

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HB 538
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: 3/11/88
Title: HB538: An Act relating to the Alaska Municipal Bond Bank Authority
Sponsor: State Affairs Committee
Requestor: _____
Agency Affected: Revenue
BRU: Alaska Municipal Bond Bank Authority
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Attached

Prepared by: Perry Davis Phone: 274-7366
Division: Alaska Municipal Bond Bank Authority Date: 3/16/88
Approved by Commissioner: [Signature] Date: 3/16/88
Agency: Department of Revenue

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

At this time, we are unable to determine the extent of participation by communities in this new authority. The Board of Directors of the Bond Bank has not approved issuance of any bonds under these guidelines. At the time that the Board reviews issuance of bonds, it will include costs related to the issuance of bonds under these new definitions.

In the event that bonds are issued under this authority, such costs would be paid by program receipts.

(4) HB 538



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

March 28, 1988

TO: Rep. Henry Springer, Chairman HCRA

FROM: David C. Harrison, P.A., HCRA *DCH*

Subject: HB 538 "An Act relating to the Alaska Municipal Bond Bank Authority; and providing for an effective date.

Review on HB 538

COMMENTS:

Section 1. AS 44.85.170(b) as amended provides state aid to a municipality which is in default on any bonds held by the bond bank shall be paid directly to the bond bank. The deletion of the following [GENERAL OBLIGATION] & [OF THE MUNICIPALITY] clears the way for amendment in Sec. 2. AS 44.85.410(3) lines 10, 11, page 2, allowing the Alaska Bond Bank to purchase an obligation of a municipality served by a special assessment or lease.

The addition of special assessment and lease opens other opportunities for the Alaska Municipal Bond Bank Authority to provide services to municipalities within Alaska.

Some testimony indicate that financing would also be available for equipment leasing.

Sec. Effective date indicated under AS 01.10.070(c).

HB

539

3/14
D

R F P R N

BILL PREPARATION/ACTION*

Bill # HB 539

Date Referred: 3/11/8

Out:

Title: Assumption of Education Powers

Sponsor: (H)HES

Referrals: CRA HES

CONTACTS:*****

Name

<u>Jim Nordlund</u>	<u>3759</u>	<u>3/23 [3/23]; 3/29 reminder;</u>
<u>Plummer</u>	<u>FN</u>	<u>FP 3/29; call</u>

WHILE YOU'RE AWAY

FOR Martha DATE 3/23 TIME 3:36 PM

TO Jim Nordlund

OF

PHONE 3759

MESSAGE Re: back up material for HB 539 - give him a call

SIGNED

<input type="checkbox"/>	TELEPHONED
<input type="checkbox"/>	RETURNED YOUR CALL
<input type="checkbox"/>	PLEASE CALL
<input type="checkbox"/>	WILL CALL AGAIN
<input type="checkbox"/>	CAME TO SEE YOU
<input type="checkbox"/>	WANTS TO SEE YOU

NOTE: FORM 4002

REMARKS:

MEETINGS:*****

Date	Act
	<u>I - [unclear]</u>
	<u>with [unclear] 7/15/89</u>
	<u>- bill [unclear] [unclear]</u>
	<u>- [unclear] [unclear]</u>
	<u>- [unclear] [unclear]</u>

*See other sid

CONTAC.TXT

MAR 29 1988

File Contents

HB 539 - Assumption of Education Powers

<u>No.</u>	<u>Description</u>
1.	Bill - HB 539
2.	Bill Review - Harrison

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

File Contents

HB 539 - Assumption of Education Powers

<u>No.</u>	<u>Description</u>
1.	Bill - HB 539
2.	Bill Review - Harrison

② HB 539



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

March 24, 1988

TO: Rep. Henry Springer, Chairman HCRA

FROM: David C. Harrison, P. A., HCRA *DCH*

Subject: HB 539 "An Act relating to the assumption of education powers by a newly incorporated borough."

BILL REVIEW:

Section AS 29.05.140 is amended by adding a new subsection to read:

(e) Before the assumption of education powers the school board of the school district of a newly incorporated borough shall adopt a plan providing for the merger of school districts existing within the area of the new borough, together with a timetable for the transition.

COMMENTS: Re: lines 11 to 15. The question of a school board adopting a plan of merger before the assumption of its education powers is raised?

Provisions of AS 29.05.140 regarding transition, states that powers and duties exercised by cities and service areas are succeeded to by a newly incorporated municipality continue to be exercised by cities and service areas until the new municipality assumes the powers and functions, which may not exceed two years after the date of incorporation. Ordinances, rules, resolutions, procedures, and orders in effect before the transfer remain in effect until superseded by the action of the new municipality.

COMMENTS Re: lines 15 to 17. (e) The plan may be adopted only after consulting with the school board of each district that will be merged into the new borough school district.

Again, may a borough school board exercise any power or authority before assumption of its education powers? In AS 29.05.140(b) Before the assumption, the new municipality shall give written notice of its assumption of rights, powers, duties, assets, and liabilities under this section and AS 29.05.130 to the city or service area concerned.

Municipal officials shall consult with the officials of the city or service area concerned and arrange an orderly transfer.

COMMENTS Re: lines 17 to 20 (e) The plan must identify all changes in curriculum and graduation and teacher training requirements expected to be made by the new borough school district upon assumption of the education power.

It takes years to develop curriculum for a school district as well as providing for graduation requirements. Teacher training requirements should be provided based upon an assessment of instructional needs per current laws. It is not possible for a school board to act upon such things until it has assumed education powers. It would be prudent for a school board to proceed in these areas as it gains wisdom and experience in dealing with school matters.

COMMENTS Re: lines 20 to 22 (e) All funds of a former school district shall be retained for use in the area of that district for one year after the new borough assumes the education power.

Under AS 14.17.210 requires state aid to newly established district schools be given until the expiration of a complete fiscal year after the date on which the school becomes a city or borough school district. An uninterrupted funding is assured during the transition period.

Additional general information on statutes regarding education are listed.

AS 14.14.070 provides within seven days after certification of the results of each regular school election, the school board shall meet and elect one of its members as president, one as clerk, and, if necessary, one as treasurer.

Section of current law AS 14.14.090 indicate other duties a school board shall provide - for convenience, two are listed here--(2) provide an educational program for each school age child who is a resident of the district and (7) establish procedures for the review and selection of all textbooks and instructional materials before they are introduced into the school curriculum.

AS 14.14.100 pertains to bylaws and administrative rules required to be in writing and formally adopted at regular school board meetings.

AS 14.12.035 provides that a borough school district board may establish advisory school boards, and by regulation shall prescribe their manner of selection, organization, powers, and duties.

AS 14.12.010(2), each organized borough is a borough school district."

AS 14.12.020(b), each borough or city school district shall be operated on a district-wide basis under the management and control of a school board.

Under municipal law Sec. 29.35.160, each borough constitutes a borough school district and establishes, maintains, and operates a system of public schools on an areawide basis; and as provided in AS 14.14.060, which provides certain relationships between the borough school district and the borough.

Section 14.14.100 pertains to bylaws and administrative rules required to be in writing and formally adopted at regular school board meetings.

Section 14.14.110 relates to cooperation with other districts when necessary to provide more efficient or more economical educational services, a district may cooperate or the department may require a district to cooperate with other districts, etc.

AS 14.12.035 A borough school district board may establish advisory school boards, and by regulation shall prescribe their manner of selection, organization, powers and duties.

HPB

542

PUBLIC LAW 100-379 [S. 2527]; August 4, 1988

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

For a Related Legislative Report, see Conference Report (H.Rept. 100-576, title VI, subtitle E) for P.L. 100-—, the Omnibus Trade and Competitiveness Act of 1988, in the October U.S.C.C. & A.N. pamphlet (No. 7) Legislative History Section.

An Act to require advance notification of plant closings and mass layoffs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Worker Adjustment and Retraining Notification Act”.

(b) **TABLE OF CONTENTS.**—The table of contents is as follows

- Sec. 1. Short title.
- Sec. 2. Definitions; exclusions from definition of loss of employment.
- Sec. 3. Notice required before plant closings and mass layoffs.
- Sec. 4. Exemptions.
- Sec. 5. Administration and enforcement of requirements.
- Sec. 6. Procedures in addition to other rights of employees.
- Sec. 7. Procedures encouraged where not required.
- Sec. 8. Authority to prescribe regulations.
- Sec. 9. Effect on other laws.
- Sec. 10. Report on employment and international competitiveness.
- Sec. 11. Effective date.

SEC. 2. DEFINITIONS; EXCLUSIONS FROM DEFINITION OF LOSS OF EMPLOYMENT.

(a) **DEFINITIONS.**—As used in this Act—

(1) the term “employer” means any business enterprise that employs—

(A) 100 or more employees, excluding part-time employees; or

(B) 100 or more employees who in the aggregate work at least 4,000 hours per week (exclusive of hours of overtime);

(2) the term “plant closing” means the permanent or temporary shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment, if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees;

(3) the term “mass layoff” means a reduction in force which—

(A) is not the result of a plant closing; and

(B) results in an employment loss at the single site of employment during any 30-day period for—

(i)(I) at least 33 percent of the employees (excluding any part-time employees); and

(II) at least 50 employees (excluding any part-time employees); or

(ii) at least 500 employees (excluding any part-time employees);

(4) the term “representative” means an exclusive representative of employees within the meaning of section 9(a) or 8(f) of the National Labor Relations Act (29 U.S.C. 159(a), 158(f)) or section 2 of the Railway Labor Act (45 U.S.C. 152);

(5) the term "affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff by their employer;

(6) subject to subsection (b), the term "employment loss" means (A) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (B) a layoff exceeding 6 months, or (C) a reduction in hours of work of more than 50 percent during each month of any 6-month period;

(7) the term "unit of local government" means any general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers; and

(8) the term "part-time employee" means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required.

(b) EXCLUSIONS FROM DEFINITION OF EMPLOYMENT LOSS.—(1) In the case of a sale of part or all of an employer's business, the seller shall be responsible for providing notice for any plant closing or mass layoff in accordance with section 3 of this Act, up to and including the effective date of the sale. After the effective date of the sale of part or all of an employer's business, the purchaser shall be responsible for providing notice for any plant closing or mass layoff in accordance with section 3 of this Act. Notwithstanding any other provision of this Act, any person who is an employee of the seller (other than a part-time employee) as of the effective date of the sale shall be considered an employee of the purchaser immediately after the effective date of the sale.

(2) Notwithstanding subsection (a)(6), an employee may not be considered to have experienced an employment loss if the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff—

(A) the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment; or

(B) the employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

SEC. 3. NOTICE REQUIRED BEFORE PLANT CLOSINGS AND MASS LAYOFFS.

(a) NOTICE TO EMPLOYEES, STATE DISLOCATED WORKER UNITS, AND LOCAL GOVERNMENTS.—An employer shall not order a plant closing or mass layoff until the end of a 60-day period after the employer serves written notice of such an order—

(1) to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) to the State dislocated worker unit (designated or created under title III of the Job Training Partnership Act) and the chief elected official of the unit of local government within which such closing or layoff is to occur.

If there is more than one such unit, the unit of local government which the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.

(b) **REDUCTION OF NOTIFICATION PERIOD.**—(1) An employer may order the shutdown of a single site of employment before the conclusion of the 60-day period if as of the time that notice would have been required the employer was actively seeking capital or business which, if obtained, would have enabled the employer to avoid or postpone the shutdown and the employer reasonably and in good faith believed that giving the notice required would have precluded the employer from obtaining the needed capital or business.

(2)(A) An employer may order a plant closing or mass layoff before the conclusion of the 60-day period if the closing or mass layoff is caused by business circumstances that were not reasonably foreseeable as of the time that notice would have been required.

(B) No notice under this Act shall be required if the plant closing or mass layoff is due to any form of natural disaster, such as a flood, earthquake, or the drought currently ravaging the farmlands of the United States.

(3) An employer relying on this subsection shall give as much notice as is practicable and at that time shall give a brief statement of the basis for reducing the notification period.

(c) **EXTENSION OF LAYOFF PERIOD.**—A layoff of more than 6 months which, at its outset, was announced to be a layoff of 6 months or less, shall be treated as an employment loss under this Act unless—

(1) the extension beyond 6 months is caused by business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and

(2) notice is given at the time it becomes reasonably foreseeable that the extension beyond 6 months will be required.

(d) **DETERMINATIONS WITH RESPECT TO EMPLOYMENT LOSS.**—For purposes of this section, in determining whether a plant closing or mass layoff has occurred or will occur, employment losses for 2 or more groups at a single site of employment, each of which is less than the minimum number of employees specified in section 2(a) (2) or (3) but which in the aggregate exceed that minimum number, and which occur within a 60-day period shall be considered to be a plant closing or mass layoff unless the employer demonstrates that the employment losses are the result of separate and distinct actions and causes and are not an attempt by the employer to evade the requirements of this Act.

SEC. 4. EXEMPTIONS.

This Act shall not apply to a plant closing or mass layoff if—

(1) the closing is of a temporary facility or the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking; or

(2) the closing or layoff constitutes a strike or constitutes a lockout not intended to evade the requirements of this Act. Nothing in this Act shall require an employer to serve written notice pursuant to section 3(a) of this Act when permanently replacing a person who is deemed to be an economic striker under the National Labor Relations Act: *Provided*, That nothing in this Act shall be deemed to validate or invalidate any judicial or administrative ruling relating to the hiring of permanent replacements for economic strikers under the National Labor Relations Act.

SEC. 5. ADMINISTRATION AND ENFORCEMENT OF REQUIREMENTS.

(a) **CIVIL ACTIONS AGAINST EMPLOYERS.**—(1) Any employer who orders a plant closing or mass layoff in violation of section 3 of this Act shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing or layoff for—

(A) back pay for each day of violation at a rate of compensation not less than the higher of—

(i) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(ii) the final regular rate received by such employee; and

(B) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss which would have been covered under an employee benefit plan if the employment loss had not occurred.

Such liability shall be calculated for the period of the violation, up to a maximum of 60 days, but in no event for more than one-half the number of days the employee was employed by the employer.

(2) The amount for which an employer is liable under paragraph (1) shall be reduced by—

(A) any wages paid by the employer to the employee for the period of the violation;

(B) any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation; and

(C) any payment by the employer to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan) on behalf of and attributable to the employee for the period of the violation.

In addition, any liability incurred under paragraph (1) with respect to a defined benefit pension plan may be reduced by crediting the employee with service for all purposes under such a plan for the period of the violation.

(3) Any employer who violates the provisions of section 3 with respect to a unit of local government shall be subject to a civil penalty of not more than \$500 for each day of such violation, except that such penalty shall not apply if the employer pays to each aggrieved employee the amount for which the employer is liable to that employee within 3 weeks from the date the employer orders the shutdown or layoff.

(4) If an employer which has violated this Act proves to the satisfaction of the court that the act or omission that violated this Act was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this Act the court may, in its discretion, reduce the amount of the liability or penalty provided for in this section.

(5) A person seeking to enforce such liability, including a representative of employees or a unit of local government aggrieved under paragraph (1) or (3), may sue either for such person or for other persons similarly situated, or both, in any district court of the United States for any district in which the violation is alleged to have occurred, or in which the employer transacts business

(6) In any such suit, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs.

(7) For purposes of this subsection, the term, "aggrieved employee" means an employee who has worked for the employer ordering the plant closing or mass layoff and who, as a result of the failure by the employer to comply with section 3, did not receive timely notice either directly or through his or her representative as required by section 3.

(b) **EXCLUSIVITY OF REMEDIES.**—The remedies provided for in this section shall be the exclusive remedies for any violation of this Act. Under this Act, a Federal court shall not have authority to enjoin a plant closing or mass layoff.

SEC. 6. PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.

The rights and remedies provided to employees by this Act are in addition to, and not in lieu of, any other contractual or statutory rights and remedies of the employees, and are not intended to alter or affect such rights and remedies, except that the period of notification required by this Act shall run concurrently with any period of notification required by contract or by any other statute.

SEC. 7. PROCEDURES ENCOURAGED WHERE NOT REQUIRED.

It is the sense of Congress that an employer who is not required to comply with the notice requirements of section 3 should, to the extent possible, provide notice to its employees about a proposal to close a plant or permanently reduce its workforce.

SEC. 8. AUTHORITY TO PRESCRIBE REGULATIONS.

(a) The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this Act. Such regulations shall, at a minimum, include interpretative regulations describing the methods by which employers may provide for appropriate service of notice as required by this Act.

(b) The mailing of notice to an employee's last known address or inclusion of notice in the employee's paycheck will be considered acceptable methods for fulfillment of the employer's obligation to give notice to each affected employee under this Act.

SEC. 9. EFFECT ON OTHER LAWS.

The giving of notice pursuant to this Act, if done in good faith compliance with this Act, shall not constitute a violation of the National Labor Relations Act or the Railway Labor Act.

SEC. 10. REPORT ON EMPLOYMENT AND INTERNATIONAL COMPETITIVENESS.

Two years after the date of enactment of this Act the Comptroller General shall submit to the Committee on Small Business of both the House and Senate, the Committee on Labor and Human Resources, and the Committee on Education and Labor a report containing a detailed and objective analysis of the effect of this Act on employers (especially small- and medium-sized businesses), the economy (international competitiveness), and employees (in terms of levels and conditions of employment). The Comptroller General shall assess both costs and benefits, including the effect on productivity, competitiveness, unemployment rates and compensation, and worker retraining and readjustment.

Aug. 4

WORKER NOTIFICATION ACT

P.L. 100-379

SEC. 11. EFFECTIVE DATE.

This Act shall take effect on the date which is 6 months after the date of enactment of this Act, except that the authority of the Secretary of Labor under section 8 is effective upon enactment.

[Became law without Presidential signature August 4, 1988.]

Greeley, Casperson make run to nationals

—SPORTS, PAGES 9-10



NEIGHBORS

Older Alaskans
complete
computer training

—PAGES 11-12

TUESDAY

May 24, 1988

VOLUME 77 NUMBER 102
16 PAGES 2 SECTIONS \$35 CENTS

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JUNEAU EMPIRE

'The Voice of Alaska's Capital City'

Reagan vetoes trade bill; House override seen

By TOM RAUM

THE ASSOCIATED PRESS

WASHINGTON — President Reagan today vetoed a major trade bill "with sincere regret" and asked Congress to expedite a version more to his liking.

"I want to sign a trade bill this year," he said in the message formally notifying the House and the Senate that he was rejecting the 1,000-page measure.

The leader of House Democrats predicted his chamber would vote to override the veto, but his Senate counterpart said such action there appeared doubtful.

Reagan's veto, announced by his spokesman, turned in part on a provision requiring that workers be given notice of planned plant closings.

Spokesman Marlin Fitzwater said Reagan would sign

a bill bereft of the provision requiring a 60-day notice of closings and layoffs and shorn of proposed restrictions on the export of Alaskan oil.

The bill includes a requirement that employers at large companies give workers 60-day advance notice of plant closings and layoffs, the provision that generated the most recent opposition.

"It is with sincere regret that today I must disapprove and return ... the Omnibus Trade and Competitiveness Act of 1988," Reagan's message said.

In his message, Reagan argued that companies need flexibility in announcing layoffs or closings in order to survive times of economic stress.

"I support voluntarily giving workers or communities as much advance warning as possible when a layoff or

closing becomes necessary. ... It is the humane thing to do," Reagan said.

The president said he felt the bill could hurt the economy, which has created 16 million jobs and has the lowest unemployment rate in 14 years.

"I am convinced this bill will cost jobs and damage our economic growth," Reagan said.

The president also contended that the bill would "push us in the direction of protectionism.

"Closing our borders is not the solution to opening foreign markets," he said.

Reagan's veto of the 1,000-page bill appeared likely to be sustained in the Senate, although perhaps by a narrow margin. The House, where the trade bill has wider support, was expected to take up the veto immediately after

receiving it today.

Speaker Jim Wright, meeting with reporters at the White House before the president signed his veto message, predicted the chamber will override the president.

"We think this bill ought to be passed. ... If, in the final analysis, we cannot muster the votes in the Senate, we will pass the strongest, most effective trade bill that you can, but that will take time," the Texas Democrat said.

Senate Majority Leader Robert Byrd, D-W.V., acknowledged that "the probabilities are" the president's veto will be sustained in the Senate.

But he warned that it will be "extremely difficult" for a new bill to wend its way through the chamber's complex procedures before its scheduled Oct. 8 adjournment.

STATE OF ALASKA THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HL+C	3-29-88	2:00 P.M.
	3-31-88	2:00 P.M.
HC+RA	4-13-88	3:00 P.M.

HOUSE LABOR & COMMERCE COMMITTEE

DATE 3/31/88

TAPE NO. 89

HB 542

BILL NUMBERS: HB 15 (WS) HCR 39, HB 517, HB 394 (W.S.)

MEMBERS PRESENT: Dave, Ellis, Koppen, Davidson, Menard (2:12), Furnace (2:15) Boucher (2:20)

MEMBERS ABSENT: ~~Four~~ None

MEETING CALLED TO ORDER :

TAPE #	BILL #	
000	HB 15	work session -
014		Rep Terry Martin -
029		first bill in 1986 - from Colorado to encourage business in these areas - tax incentives - larger unemployment for tax credit -
275		Gally Sadler - Dept of Labor - economists any area -
300		Boucher
486		Dave - position paper from Rep + Commerce
495		Meeting called to order 2:35
	HB 517	
520	HCR 39	Dave - on his resolution - OS changed foreign to alien -
531		Boucher - moved to adopt OS
540		Dave - discussed issue -
546		Ellis - bottom fish industry plants and a corp - importing people from China

TAPE #	BILL #	HOUSE LABOR & COMMERCE	DATE: 3/31	PAGE 2 OF
554		Davidson - Kodiak "Eagle Fisheries"		
		flat fish fillets - corp of dependable workers - 32 Chinese fish filleters		
580		Koponen - sees a need for experience		
587		Ellis - shore base operations - wages?		
		Menaud -		
		Davidson - working with DOI to establish core workers -		
600		Menaud - follow up - when there's an option lose the option - need to look		
613		Koponen - every state but Alaska it's in place -		
		Dave include Alaska		
623		Ellis - go to Kodiak - resident work force		
TAPE ONE / SIDE TWO				
000	HCR 39	Ellis still talking booming activities		
019		Davidson - Kodiak open invitation		
036		Koponen - first order of business should be Alaskians working priority in emp		
067		More res. with incl res.		
071	HBS 17	Prime sponsor -		
075		Judy Knight - Rep Ulmer's assist.		

TAPE #	BILL #	HOUSE LABOR & COMMERCE	DATE: 3/31 PAGE 3 OF
081		- Protects volunteers - no objection to amendment - modeled after Fed Reg Fed Volunteer Protection Act states that don't adopt by 1989 - reduction	
109		Koponen - passed 4 pieces of leg previously - am suits followed -	
123		Jim Dumont - rep. like Rec & Parks Assoc. Organized 100 people passed a resolution in support of HB 517	
144		Bob Carew - Chair - ARRP Leg suit everyone in sight - people stopped volunteering - still at risk - "tending to sue" - Supports HB 517 no object to amendment	
187		Koponen - a bit of history "1705"	
198		Dave - amendment -	
204		Davidson - wants to move - incorp the conceptual amendment - no obj Move the bill the CS as amended No obj.	
224	HB 542	Dave - asks Gingen to explain -	
230		Gingen - proposed CS - last week notification bill - any emp or business plant closure, merger - 20 days notice failure to notify -	

TAPE #

BILL #

HOUSE LABOR & COMMERCE

DATE: 3/31 PAGE 4 OF

256 Ginger - see Ginger's notes - collective bargain

266 21 or more people - covering 70% of employees - 10% employers

Boucher - banks etc - does it apply to them

293 Ginger - yes if 21 employees. Dep L - repres - nothing on the books!

301 Boucher - banking James Sanwick - DOL -

307 James - NO - not his course of - support changes has stats

318 Koponen moved to adopt CS - no obj
" moved CS HB 542 - next comm

325 Boucher - wants a note attached RE: banking industry - letter from a women -

339 Menard - Dave

371 HB 394 - Dave - Koponen - Chair of sub committee - Work Session - proposed amendments

378 Koponen - looked at Boucher's amendments
394 Dave adopt #1 amendment -

404 Davidson -
~~not~~ no objection to ~~the~~ Boucher amend

410		Dave - another amendment -
419		Ginger - language -
		deny public access to information
449		Ripstein
477		Davidson dealing with two things -
		no need for a conc
492		any objections to amendment 5-1695 ^{Bd}
		no objects - will incorp
501		adopt CS for no - object -
504		Davidson - moved out of commit
525		Dave - adjourned the meeting at 3:28



Official Business

COMMITTEE:
HOUSE LABOR & COMMERCE

DATE: March 31, 1988

SIGN-IN

Subject of meeting:

HB 15 "An Act providing certain tax benefits in business enterprise zones; and providing for an effective date." WORK SESSION

HCR 39 "Encouraging the restriction of foreign workers on oil and gas production and exploration structures on the outer continental shelf."

HB 517 "An Act relating to civil liability of certain volunteers."

HB 394 "An Act relating to electric and telephone cooperatives; and providing for an effective date." WORK SESSION

PLEASE PRINT
NAME & TITLE

REPRESENTING

ADDRESS & ZIP

PHONE

DO YOU WANT
TO TESTIFY?

SUBJECT:
BILL #

Sally Sandler Labor Economist IV	Dept of Labor		H W 4500	Yes	HB 15
Andy Hughes	FRAN Ulmer		H W 4947	yes	HB 517
Jim Dumont	Alk. Rec + Park Assn		H W 586-5226	yes	HB 517
Bob Ravitt	AARP State Legisl Committee		H W 586-2066	yes	HB 517
JAMES SANDWICK	DOZ		H W	✓	HB 542
			H W		
			H W		
			H W		
			H W		
			H W		

5-2116A

Cramer
3/29/88

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to notification of employees when an
7 employer makes a substantial change in a business
8 activity or when a governmental entity contracts
9 certain activities to a private entity."

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

11 * Section 1. LEGISLATIVE FINDINGS. (a) The legislature finds that
12 employment is vitally important to an individual's economic well-being and
13 self-respect. Employees invest their skills and efforts in their employ-
14 er's activity and have a vital stake in the employer's continued operation
15 and their continued employment. When their employment is terminated due to
16 the termination, transfer of ownership, or relocation of the business or
17 governmental activity, the employees suffer heavy economic and personal
18 losses.

19 (b) The legislature further finds that when an employer closes or
20 relocates, particularly if the employer employs a large number of employees
21 in a locality or within an industry, it is difficult, and sometimes impos-
22 sible, for the former employees to find comparable employment with another
23 employer. When an employer closes or relocates or when employees are
24 terminated because of a transfer of ownership, long-time employees lose the
25 seniority, benefits, and unaccrued pension credits they have earned during
26 their many years of service. Employment offering comparable wages and
27 benefits is unavailable to many, and some older employees will be unable to
28 find alternative employment.

29 (c) The legislature determines that employers should be required to

1 notify their employees of anticipated substantial changes in business
2 activity so that the employees can prepare for the future.

3 * Sec. 2. AS 23.10 is amended by adding new sections to read:

4 ARTICLE 7. EMPLOYMENT CLOSURE, RELOCATION, OR TRANSFER.

5 Sec. 23.10.450. RIGHT TO NOTICE. (a) Except as provided in (b)
6 of this section, an employer who expects to make a substantial change
7 in business activity shall give each employee written notice of the
8 anticipated change at least 60 days before the date of change. An
9 employer who fails to give timely notice is liable to an employee for
10 severance pay in the amount of one month's pay.

11 (b) An employer is not liable for severance pay under this
12 section to an employee if

13 (1) the employee is covered by an express contract provid-
14 ing for severance pay in an amount equal to or greater than that
15 required by AS 23.10.450 - 23.10.470; or

16 (2) the predecessor or successor employer offers the em-
17 ployee employment that provides wages and benefits that are substan-
18 tially similar to those that the employee received before the substan-
19 tial change in the business activity.

20 Sec. 23.10.460. GOVERNMENTAL LIABILITY. (a) A governmental
21 entity that ceases to employ employees to perform an activity and
22 contracts with one or more private entities to have all or a substan-
23 tial portion of the activity performed by the private entities shall
24 notify employees whose employment is affected by the cessation as
25 required of employers under AS 23.10.450. The governmental entity is
26 liable to employees for failure to give timely notice as provided in
27 that section.

28 (b) In this section, "governmental entity" means the state, a
29 municipality, a political subdivision of the state, the University of

1 Alaska, or the Alaska Railroad, and includes an administrative unit of
2 the state, municipality, political subdivision, university, or rail-
3 road.

4 Sec. 23.10.470. DEFINITIONS. In AS 23.10.450 - 23.10.470

5 (1) "employee" means an individual employed by an employer
6 or a governmental entity;

7 (2) "employer" includes an individual, partnership, asso-
8 ciation, corporation, business trust, or other nongovernmental entity
9 that employs eight or more persons;

10 (3) "one month's pay" means the average monthly compen-
11 sation paid to an employee by an employer based on the amount of
12 compensation received by the employee during the preceding 12 months;

13 (4) "predecessor employer" means an employer who has trans-
14 ferred the ownership of a business or a part of a business to another;

15 (5) "relocation" of a business or part of a business means
16 removal of all or substantially all operations of the business, a
17 separate facility or branch, or a distinct division or department of a
18 business to a location at least 60 miles away from the original loca-
19 tion;

20 (6) "substantial change in a business activity" means the
21 relocation, termination, or transfer of ownership in a business or a
22 part of a business;

23 (7) "successor employer" means an employer to whom the
24 ownership of a business or a part of a business has been transferred;

25 (8) "termination" of a business or part of a business means
26 that all or substantially all operations of the business, a separate
27 facility or branch, or a distinct division or department of a business
28 cease and that the business or part of the business is permanently
29 closed;

1 (9) "transfer of ownership" of a business or part of a
2 business includes a transfer of ownership in a business, a separate
3 facility or branch, or a distinct division or department of a busi-
4 ness, including sale of stock, a sale of assets, a foreclosure or
5 other form of repossession by creditors, a gift, a devise, or any
6 other means of transfer of ownership.
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File Contents

HB 542 - Severence Pay when Business/Gov't Changes

<u>No.</u>	<u>Description</u>
1.	Bill - HB 542
1.1	Zero Fiscal Note, HB 542 - Dept. of Labor
2.	CSHB 542 (L&C)
2.1	Zero Fiscal Note, CSHB 542(L&C) - Dept. of Labor
3.	Bill Review - Harrison
4.	Committee Report - L&C, 3/31/88, 6 DP
5.	Table A - Employeers in AK subject to Unemployment Laws
6.	Minutes, HL&C, 3/29/88
7.	Minutes, HL&C, 3/31/88
8.	Letter to Rep. Boucher from Panduren, 12/27/87

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

1.1 HB 542

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION : HB 542
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor

Title: "An Act relating to employer obligations...." BRU: Labor Standards & Safety

Sponsor: House Labor & Commerce Components: Wage & Hour

Requestor: House Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (. thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director Phone: 264-2452

Division: Labor Standards & Safety Date: 3/25/88

Approved by Commissioner: Jim Sampson Date: 3/25/88

Agency: Department of Labor

Distribution (by preparer) :

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

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION : CS HB 542 (L&C)

(2.1) HB 542

PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
 Title: "An Act relating to employer obligations...." BRU: Labor Standards & Safety
 Sponsor: House Labor & Commerce Components: Wage & Hour
 Requestor: House Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director Phone: 264-2452
 Division: Labor Standards & Safety Date: 3/31/88

Approved by Commissioner: Jim Sampson Date: 3/31/88
 Agency: Department of Labor

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

3 CSHB542 CL&C



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

April 8, 1988

TO: Henry Springer, Chairman HCRA

FROM: David C. Harrison, P.A., HCRA

SUBJECT: CSHB 542 "An Act relating to employer obligations when an employer makes a substantial change in a business activity or when a governmental entity contracts certain activities to a private entity."
(Sponsor: H. Labor and Commerce Committee)

REVIEW:

Section 1. (a) Findings by the legislature concerning the wellbeing of employees within Alaska is the thrust of this bill. It is recognized that the part of the employees' wellbeing is assured when he/she is notified in a timely manner of a change in his/her employment status either with a private or government employer.

Additional findings indicate employee conditions and status change when an employer:

- 1. closes; 2. relocates; 3 terminates;
- 4. transfers; and/or 5. leases the business activity.

That long-time employees lose seniority, benefits, unaccrued pension credits and in some instances older employees are unable to find alternative employment.

Therefore, the legislature determines that employers should be required to notify their employees of anticipated substantial changes in business activity so that the employee can prepare for the future.

ARTICLE 7. EMPLOYMENT CLOSURE, RELOCATION, OR TRANSFER.

Sec. 23.10.450 RIGHT TO NOTICE

COMMENTS: Under proposed bill, an employer shall give 60 days prior notice of substantial changes affecting employee's employment.

Penalty of employer's failure to notify an employee of substantial change in employment is liable for one

month's severance pay.

Exception to penalty based upon favorable condition for the employee per contracts or successor employer offers employee employment that provides wages and benefits that are substantially similar to those that the employee received before substantial change in the business activity.

Sec. 23.10.460 GOVERNMENTAL LIABILITY

Government liability is somewhat the same as the private business sector but conditions for notice requirements are somewhat different. If a governmental entity chooses contracts and/or leases or conveys government property that would alter an employee's employment status a prior 60 day notice of such would be in order. Appropriate penalties for failure to provide a prior 60 day notice to an employee would be required - severance pay in the amount of one month's pay is indicated.

(b) Governmental entities are spelled out as the state; a municipality; a political subdivision of the state; a school district, including a regional educational attendance area; the University of Alaska; the Alaska Railroad; and an administrative unit of the state, municipality, political subdivision, university, or railroad.

Sec. 23.10.470 provides for definitions in AS 23.10.450 - 23.10.470 as herein stated.

Sec.3 This Act does not modify or terminate the terms of a collective bargaining agreement in existence on the effective date of this Act.

Note: It would seem that an effective date clause would have been spelled out after Sec. 3, of this bill!

HOUSE COMMITTEE REPORT

(4) HB 542

(7)

Date referred: 3/17/88

FURTHER REFERRALS:

C&RA
Judiciary
Finance

DATE:

3/31/88

The Labor & Commerce Committee has considered HB 542

HOUSE BILL NO.

"An Act relating to employer obligations when an employer makes a substantial change in a business activity or when a governmental entity contracts certain activities to a private entity."

RECOMMENDS:

- replace with CS HB542 (L+C) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

David H. Donley
Walter F. Gorman
Ch. C. "Bud" Murphy
Conrad M. ...
Cliff Davidson
John Ellis

David H. Donley
 Chairman's signature

TABLE A.
OF THE EMPLOYERS CLASSIFIED IN PRIVATE INDUSTRY, WHO ARE SUBJECT TO ALASKA'S UNEMPLOYMENT INSURANCE LAWS, 54% REPORTED 0 TO 3 EMPLOYEES DURING THE PAY PERIOD THAT INCLUDED THE 12TH OF SEPTEMBER, 1987.

TABLE A

STATEWIDE
EMPLOYERS BY SIZE CLASS
SEPTEMBER 1987

SIZE CLASS	0-3	4-9	10-19	20-49	50-99	100-249	250-499	500-999	1000+	TOTAL
NUMBER OF EMPLOYERS	7,084	3,259	1,385	806	252	164	46	14	7	13,017
PERCENTAGE	54.42	25.04	10.64	6.19	1.94	1.26	.35	.11	.05	100.00

10% of Employers

TABLE B:
APPROXIMATELY 13% OF ALL EMPLOYEES REPORTED BY EMPLOYERS CLASSIFIED IN PRIVATE INDUSTRY, WHO ARE SUBJECT TO ALASKA'S UNEMPLOYMENT INSURANCE LAWS, WERE ON THE PAYROLL OF EMPLOYERS WHO COUNTED 4 TO 9 PERSONS DURING THE PAYROLL PERIOD THAT INCLUDED THE 12TH OF SEPTEMBER, 1987.

TABLE B

STATEWIDE
EMPLOYEES BY SIZE CLASS
SEPTEMBER 1987

SIZE CLASS	0-3	4-9	10-19	20-49	50-99	100-249	250-499	500-999	1000+	TOTAL
EMPLOYEE COUNTS	8,536	19,186	18,671	23,743	17,745	25,059	16,369	9,519	11,496	150,324
PERCENTAGE	5.68	12.76	12.42	15.80	11.80	16.67	10.89	6.33	7.65	100.00

70% of employees

8

HB 542

December 27, 1987

Honorable H. A. Boucher
Alaska House of Representatives
PO Box 111038
Anchorage AK 99511

Dear Representative Boucher,

By now, I am sure you are aware of the December 11 closure of First Interstate Bank of Alaska. As an employee of First Interstate at the time of closing, several issues are of great concern to me. I would appreciate your help in looking into these matters, and will supply you with all the facts that are available to me.

As a state chartered bank, First Interstate was closed by the State Banking Commission and FDIC was appointed receiver of the bank. As such, FDIC is now administrator of the employees' 401K retirement plan. Approximately 150 employees are participants in the plan which is with Mutual of New York. FDIC has advised us that before any disbursements can be made, they must first review the plan, which may take up to 90 days. They will then turn it over to IRS for review. All of this may take up to one year. Until this process is complete, employees will not have access to their funds.

During this time, many employees have lost their jobs. Some have been offered temporary employment (60 to 90 days) with the acquiring bank. As a result, it is imperative that we have access to our money as soon as possible. Without jobs, many of us will need those funds just to meet every day living expenses. Considering the current economic conditions in Alaska, can the state afford the additional burden of more homes being foreclosed upon?

Another issue I would like to address is accrued vacation pay. According to FDIC, final pay to employees of a failed bank is regulated under Alaska State Statute 06.05.470 (t) (2). Subsequently, employees were paid for any vacation time which was accrued in the three months prior to the failure. Under those provisions, I was paid \$395.70. I am still owed \$1863.59 for accrued vacation pay. Although at some time we will be given the

opportunity to file a claim on these unpaid earnings, consensus is our chances of receiving further compensation are not good.

The former employees of First Interstate Bank are facing extremely unsettling times. While depositors have suffered no losses in this takeover, employees, on the other hand, do stand to sustain substantial losses, both through non-payment of earned vacation pay and unavailability of 401K funds. Any pressure that you can exert as an elected official upon the FDIC and the IRS to speed up the release of the 401K fund, and upon the State of Alaska Banking Commission to reimburse the employees for lost vacation pay would be greatly appreciated.

I anxiously await your response.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carole Panduren".

Carole Panduren

PO Box 105038

Anchorage AK 99510

HPB

550

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

HB

550

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House C+RA 4-8-88 3:00p.m.

HOUSE COMMITTEE REPORT

(5)

④ HB 550

Date referred: 3/28/88

FURTHER REFERRALS: Labor & Commerce
Finance

APR - 8 1988

DATE: _____

The Community and Regional Affairs Committee has considered HB 550

"An Act authorizing the Department of Community and Regional Affairs to modify the terms of its mortgage loans; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Heinrich Springer Springer
Adelheid Herrmann Herrmann
Bette Cato Cato

SIGNING OTHER RECOMMENDATIONS:

Logan Collins Collins

Springer

Heinrich Springer
Chairman's signature

File Contents

HB 550 - C&RA Actions Related to Mortgage Loans

<u>No.</u>	<u>Description</u>
1.	Bill - HB 550
1.1.	Zero Fiscal Note - DCRA
1.2	Position Paper - DCRA
2.	Bill Review - Harrison
3.	Memo - Legal Services, 2/29/88

STATE OF ALASKA
1988 LEGISLATIVE SESSION

(1,1) HB 550

BILL VERSION: HB 550
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An act..DCRA..modify terms of..
mortgage loans..effective date."
Sponsor: Rules Committee
Requestor: _____

Agency Affected: Community & Regional Affairs
BRU: Housing Assistance
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Jim Plasman, Deputy Director Phone: 465-4750
Division: Municipal & Regional Assistance Date: 4/4/88
Approved by Commissioner: [Signature] Date: 4/04/88
Agency: Community & Regional Affairs

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

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

1.2 HB 550
STEVE COWPER, GOVERNOR

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

April 4, 1988

POSITION PAPER

RE: House Bill 550

SPONSOR: Rules Committee by request of the House Members of the Joint Committee on Economic Recovery.

Program Effects:

This bill would allow the department, under the Housing Assistance Loan Program, to modify loan terms, such as the interest rate and maturity date, when a borrower is experiencing financial distress. This authority already exists in other State assisted housing loan programs so this legislation would make this program consistent with these other State housing loan programs.


Comments:

This bill would correct an inconsistency between the provisions of the Housing Assistance Loan Program and other State housing loan programs, such as those offered by the Alaska Housing Finance Corporation. This would give the Housing Assistance Loan Program more options when assisting a distressed borrower to maintain his or her home and credit rating. It would help reduce the maintenance, legal, and resale costs that the Housing Assistance Loan Program experiences every time it cannot save a loan and has to accept the security, such as the real property, rather than repayment of the loan amount.

The Housing Assistance Loan Fund has currently about 1400 outstanding loans. Of these, 45 are in foreclosure, and another 100 are delinquent in payments. Of these delinquencies, the department estimates between one third and one half would be able to take advantage of the loan modification provisions proposed by this legislation.

The Housing Assistance Loan program has considered the financial impact on the Housing Assistance Revolving Loan Fund (HARLF) due to the resultant reduction in the average interest rate the portfolio earns brought about by lowering the interest rate charged to the borrowers. This loss in income, when averaged over the total portfolio, will not impact the loan fund. In addition the department feels that any loss in income due to the reduction in interest income may be offset by reducing the number of non-performing loans by turning them into performing loans. When a borrower goes into default and does not make the required loan payments, the HARLF receives no income from that loan. If the department can immediately work with that borrower and renegotiate loan terms which are acceptable to the State and the borrower, the State will suffer a smaller reduction in income than if it becomes necessary to go to foreclosure and liquidate the security.

The department strongly supports this legislation. It is in the best interests of both the state and the borrowers under this program to implement this statutory change.


Marty Rutherford
Acting Deputy Commissioner



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

April 4, 1988

TO: Rep. Henry Springer, Chariman HCRA
FROM: David C. Harrison, P. A., HCRA *Deaf*
SUBJECT: HB 550 "An Act authorizing the Department of
Community and Regional Affairs to modify the terms
of its mortgage loans; and providing for an
effective date." (H Rules Committee by request)

Section 1. Findings by the legislature indicate a need to provide some relief to the distressed real estate market. It is deemed in the interest of the property owners as well as the state to provide reduced interest rates.

Sec. 2 AS 44..47 as amended relates to modification of the interest on loans under AS 44.47.360 - 44.47.560 - please see attached statutuues for your references.

Intent of this bill is that DCRA may by loan modification, reschedule principal payments or reduce interest rates or both, if the department finds it creates conditions that the loan would pay to maturity and induce the borrower to remain in active management and ownership of the property and the loan modification would be in the best financial interest of the department and the state; and considered prudent by private lending standards taking into account the financial circumstances of the borrower and other costly alternatives such as foreclosure.

If this bill passes, it would provide conditions for rescheduling of the borrower's repayment of principal under conditions herein which is not intended to affect the obligation of the borrower to repay the principal amount on the mortgage.

Provides that the department (DCRA) may reduce the interest payable on a mortgage if the modification contains an interest rate opener clause whereby if the interest rate is reduced the borrower and the department shall renegotiate the rate of interest on the mortgage within five years of the date of an interest rate reduction approved by the department.. Also. to specify the date the parties are to renegotiate the rate of interest per conditions contained herein and to incorporate a call feature reserving DCRA the

right to demand repayment of the entire principal amount due if the borrower and DCRA are unable to conclude renegotiation of the rate of interest.

Conditions are placed on DCRA under the date call feature of this bill.

The interest rate reduction approved by DCRA under this section cancels the borrower's obligation to pay the amount due that is attributable to the difference between the original interest rate and the interest rate reduction for the period of the rate reduction. Benefit is accrued to the borrower because of reduced interest rate as negotiated.

Renegotiated interest rate may not exceed the original interest rate charged on the mortgage.

Regulations prescribing terms, conditions and procedures applicable to loan modification must be made by DCRA.

Effective date of this bill is July 1, 1988.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 29, 1988

SUBJECT: Authority to restructure mortgage loans
(Work order 5-2012)

TO: Representative Steve Frank
ATTN: Rick Solie

FROM: Jack Chenoweth
Legislative Counsel

You have asked for a review of the ability of the state agencies that manage residential mortgage lending programs to restructure those loans under current law.

The sources of the principal residential mortgage loan programs are:

-- loans made under one of the various housing assistance programs by the Alaska Housing Finance Corporation under authority of AS 18.56; 1/

-- loans made from the Housing Assistance Loan Fund and the Homeownership Assistance Funds by the Division of Housing Assistance of the Department of Community and Regional Affairs under the authority of AS 44.47.360 - 44.47.560. 2/

Though their total numbers are significantly below the numbers of loans made by each of the entities mentioned above, loans for residential purposes may also be made by

-- the Alaska Permanent Fund Corporation;

-- the commissioner of revenue, acting in the capacity of treasurer of the state's retirement systems for the pension fund surpluses of the Public Employment Retirement System and the Teachers' Retirement System.

"Restructuring of mortgage loans" is usually understood to mean at least one of the following:

-- forbearance arrangements or agreements, authorizing the borrower to reduce or suspend regular mortgage payments for a stated period; or,

- modification of the terms of a mortgage, including
 - reduction of payments of principal
 - without affecting the total debt obligation of the mortgagor on the mortgage loan; or
 - accompanied by a concomitant reduction in the total debt obligation of the mortgagor on the mortgage loan;
 - reduction of the interest payment payable on the loan; or
 - delay or postponement of the due date of the mortgage obligation.

Alaska Housing Finance Corporation mortgage loans:

The Alaska Housing Finance Corporation enjoys wide latitude as to how it may address delinquent loans and those that may become delinquent. In the enumeration of the general powers of the corporation, AS 18.56.090(11) provides that the corporation may, "for its . . . corporate purposes":

consent to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of the mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the corporation is a party;

While this statutory language sets no limits, there are some practical constraints.

AHFC principally finances its programs through the use of bond proceeds. AS 18.56.110 generally prescribes limitations applicable to the bonds and notes of the corporation. AS 18.56.110(f)(3) authorizes the corporation to "covenant as to the use and disposition of any and all payments of principal and interest received by the corporation on mortgage loans . . . or other investments held by the corporation." Under AS 18.56.120,

The pledge of assets or revenue of the corporation to the payment of the principal or interest on any obligations of the agency is valid and binding from the time the pledge is made and the assets or revenue are

immediately subject to the lien of the pledge without physical delivery or further act. . . .

So it is to the covenants that support the underlying bond issues rather than to provisions of state law that one must look to determine whether AHFC's various mortgage loan programs permit restructuring of outstanding loans. One must also consider the agreements between AHFC and, on the one hand, agreements entered into with the Federal National Mortgage Association (and similar entities) covering sales of mortgages and loans and, on the other hand, agreements with the corporation's own mortgage seller/servicers. Each of these groups of agreements may include provisions limiting the corporation's flexibility in responding to defaults and potential defaults by the borrowers.

These agreements notwithstanding, AHFC does authorize loan modifications under certain circumstances. The corporation's seller/servicer manual identifies those as limited to instances in which the mortgagor's income has been permanently affected by accident or illness, or in which the mortgagor's income has been reduced or eliminated altogether for a temporary period and which has not recovered sufficiently to maintain the current mortgage. The corporation will also consider a modification "if the servicer [of the mortgage] feels that changing the terms of the mortgage would not only cure [a] present delinquency but also prevent future delinquencies." AHFC must give prior approval and "will consider . . . reamortizing the debt to include the delinquent payments or extending the term of the loan by the number of past due installments." AHFC Seller/Servicer Manual sec. 9002.06.

In summary, current state law generally appears to provide sufficient latitude for the Alaska Housing Finance Corporation to modify loans and loan provisions for loans that are delinquent or may become delinquent. Legislative initiatives to amend the law to redefine or extend AHFC's authority need to be concerned with possible claims against impairment of contracts entered into by the corporation, particularly with bond underwriters, federal government agencies that purchase the mortgages, and the corporation's seller/servicers.

Department of Community and Regional Affairs mortgage loans:

State law applicable to management of the department's mortgage loan programs does not specifically provide the department latitude to restructure repayment of principal and interest on its loans. The department's own regulations are also silent on the point.

The department has asserted to you that it may not reduce interest payable. Its assertion seems to be borne out by the following:

-- the interest rate payable by a borrower under the rural owner-occupied housing program is, by statute (AS 44.47.410(b)), tied to the rate based on the most recent AHFC bond sale;

-- the interest rate payable by a borrower under the rural non-owner-occupied housing program is set by statute (AS 44.47.520(b)) as an amount not to exceed $10\frac{1}{2}$ percent; the department advertises that the rate is $10\frac{1}{2}$ percent;

-- the interest rate payable by a borrower under the homeownership assistance housing program, the interest-subsidy assistance program, directs by statute (AS 44.47.382(b)) that, for qualifying borrowers, the subsidy allowable shall be sufficient to reduce the actual interest rate paid on the mortgage to six percent.

The net effect of the three statutes cited suggests that the department is without discretion to adjust or reduce interest payable by a borrower under any of the three programs.

The department has also represented to you that, while it may adjust payments of principal on outstanding housing program loans, its authority to adjust the payments is limited to modifying current principal payments without reducing the mortgagor's total debt obligation under the mortgage loan. In other words, the department believes that it may reduce monthly payments, but the reductions correspondingly serve to extend the repayment obligation to an additional period; the department may not cancel or forgive a portion of the borrower's indebtedness.

The source of the department's mortgage lending activity is the housing assistance loan fund. That fund is established by statute (AS 44.47.380) and was, by a 1983 amendment, made

a revolving loan fund. 3/ A revolving loan fund is commonly thought of, and in Alaska legislation has been nearly universally treated, as a fund that is continually expended and replenished, from which withdrawals are made as loans but with a corresponding obligation to repay the fund in order to keep it intact. 4/ Legislative appropriations for state revolving loan funds are typically treated as non-lapsing appropriations, and any repayments of principal on loans purchased or originated with these appropriations should be deposited into the fund and made available from the fund for subsequent expenditure.

In my judgment, the department's representation to you seems to be fully consistent with its duty to maintain the integrity of the housing assistance loan fund as a revolving fund. A reduction in principal payments accompanied by a cancellation of a portion of a borrower's indebtedness would compromise the fund balance and the ability of the agency to use the fund balance as a source of loans in subsequent years.

Investments of the Alaska Permanent Fund Corporation:

Under authority granted in AS 37.13.120(g)(16), the corporation may invest in

notes secured by mortgages granting a first lien on commercial or residential real estate improved by completed buildings [subject to specific mortgage insurance requirements];

Like the Alaska Housing Finance Corporation, the Alaska Permanent Fund Corporation enjoys broad authority to manage investments. The corporation is authorized to "enter into and enforce all contracts necessary, convenient, or desirable for purposes of the corporation." (AS 37.13.120(f)). The residential mortgages purchased by the corporation as investments become assets of the corporation subject to the corporation's general asset management policies.

Since the Permanent Fund Corporation regularly receives income from sources other than those that support the mortgage lending activities of AHFC or the Housing Assistance Division, it is not constrained by the same considerations that circumscribe loan management practices of those two entities. Within the broad authority of the statutes directing its activities, the Permanent Fund