

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5220 SCRA SB 372 - SB 385

792

I would also like to address the facts of striking. First, it is unacceptable to firemen professionally. Secondly it is unacceptable to the courts, and, most importantly is unacceptable to their public. Yet the honorability and high moral standards of these employees have gained them the instability of a future work place, unsafe work conditions and continuous attempts to circumvent proper negotiating tactics by Mayor Bill Walley and a handful of local anti tax reactionaries. Please vote against Senate Bill #372.

Jander J. Truone  
P.O. Box 2214  
Fairbanks, Ak. 99707



# Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs  
 committee name  
 committee on SB 372, dated 2-17-88  
 bill/subject

iii. chairman:

I am here today to express the opinion of the local Letter Carriers Union on SB312. Our NALC local has voted unanimous opposition to this legislation, which would undermine collective bargaining for local public employee unions.

Federal unions, like mine, have laws similar to PERA to protect our rights. Previous to 1971 we did not. PERA represents an equitable protection for workers and management, in the best tradition of fair bargaining.

NALC 4491 urges you vote against this bill.

Signed: Les G. Mitchell (vice president)

Testifier  
National Association of Letter Carriers 4491

Representing (Optional)  
315 5th Ave Fairbanks AK 99701

Address  
wk. 479-6975 hm 452-8820

Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs committee name

committee on S.B. 372, dated February 17, 1988 bill/subject

Signed George W. Bacon Testifier

Representing (Optional)

P.O. Box 82046 Fairbanks, AK 99708 Address

479-4413 Phone No.

TESTIMONY TO SENATE STATE AFFAIRS COMMITTEE

SENATE BILL 372

February 17, 1988

My name is George Bacon. For the past sixteen years I have been employed at the City of Fairbanks Fire Department. I am here to speak in opposition to Senate Bill 372.

Senator Fanning, the bill's sponsor, has been quoted in the Fairbanks Daily News-Miner of Jan 28, 1988 as saying, "The legislation will help promote fiscal stability while at the same time, it will ensure city and municipal employees that they will be given fair and beneficial treatment." I would take issue with that statement. I have read and re-read Senate Bill 372 and I have yet to find reference to fiscal stability nor have I found anything that ensures me, as a public employee, that I will be given fair and beneficial treatment. Quite the opposite.

I was a participant in contract negotiations with the City of Fairbanks prior to the city's adoption of PERA in 1983. I prefer to call this process "collective begging". It lasted for a year and a half. During this time I was painfully aware that the city's choice to participate was entirely their own. I also knew that there was no acceptable provision for impasse resolution. This arrangement precluded even basic equality amongst the participants. Certainly, this did not feel fair nor beneficial to me.

This Bill is also contrary to the declaration of policy contained in Sec 23.40.070 of the Public Employment Relations Act, which states in part:

".... The legislature declares that it is the public policy of the state to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government....."

This Bill in fact is a first step in reversing this public policy because it certainly does nothing to strengthen or enhance it. It is further my opinion that this Bill, does nothing to ensure beneficial treatment for the public employee nor does it act to stabilize local revenues.

In citing the poor local revenue picture as reason for this legislation, supporters are laying down a smoke screen to hide the real issue. The issue plain and simple is their desire to engage in union busting and eliminate collective bargaining for public employees. I find the notion that public employees are to blame for the lack of a local revenue policy not only preposterous and inaccurate but personally offensive.

We do in fact have a local revenue problem and it deserves a local solution. The solution is not a continuation of the practice of "public employee bashing" as represented by this Bill. I believe that there exists on behalf of the Borough mayor and a majority of the City council a recognition that PERA is not the problem that it is being made out to be. The Borough mayor

has gone on record as opposing this Bill. The City of Fairbanks City council failed to second a measure that would have supported this Bill. I would ask you to make that same recognition and not pass Senate Bill 372 out of committee.



# Alaska State Legislature

Please enter into the record my testimony to the STATE AFFAIRS  
committee name  
committee on SB 372, dated 17 FEB 88  
bill/subject

SEE ATTACHMENT CONSISTING OF 4 PAGES  
- 2 PAGES OF TYPED TESTIMONY  
- 2 PAGE OF NEWS PAPER ARTICLES

Signed: Mike Nielsen  
Testifier

Representing (Optional)  
POB 73297 - FAIRBANKS AK 99707  
Address  
459-6500(W) 479-5496(H)  
Phone No.

TESTIMONY IN OPPOSITION TO SB 372, INTRODUCED BY KEN FANNING

By: Mike A. Nielsen

I am fortunate to have such a unique perspective of the Public Employment Relations Act (PERA). For several years I represented the Police Employee's Association and most recently I represented the City in negotiations with the Police Association. I have held several offices within the Association including president and chief negotiator. During the last four years I have been on the City's management team as a command-staff officer within the police department and primary City negotiator on the police contract.

During my 13 years with the City, I have had the opportunity to evaluate the collective bargaining process with and without the benefit of PERA and from both the employee's and management's point of view. In the early 70's the employees were under the City Personnel Ordinance. In 1975 it was necessary to raise wages nearly 50% in order to retain and attract qualified police officers. This was the dawning of collective bargaining. Later the City allowed all contracts to expire and forced the employees back under the Personnel Ordinance. Many grievances resulted and finally in 1983 the City realized the benefits of collective bargaining and opted to come under PERA rather than duplicate the existing State system with one of its own. Quite clearly, it is in the best interest of all parties, including the tax paying public, to conduct collective bargaining within the parameters of PERA.

Our City's mayor would have you believe PERA is evil and contrary to the public's interest. This is not true as I will explain.

STATEMENT: The mayor and some other City officials have claimed Class One Employees have a "strangle hold" on the City because of binding arbitration under PERA. The mayor goes further saying it is impossible for the City to reduce wage and benefit cost under PERA.

FACT: There have only been two (2) occasions that the City and its employees have gone to binding arbitration. The City won one and the Police Association received a 3.1% cost of living adjustment in the other. This is hardly a strangle hold! Neither the mayor nor anyone else has shown any examples of this alleged "strangle hold". Both the City and its employees recognize the obligation to bargain fairly.

FACT: Class One Employees have received smaller NOT larger wage increases after PERA. The employees do NOT have a strangle hold on the City as misrepresented by the Mayor. The recent 1987-1989 Police Contract which was negotiated without arbitration, has numerous concessions including a pay cut for 1987-88 and only a three percent (3%) cost of living increase in 1989. The cost of living for 1987 alone exceeded three percent (3%). Other benefit reductions include no longevity pay (10% savings) for new hires, reduced certification pay, less holidays, recall minimum reduced to one hour, reduced clothing and cleaning allowances (+\$20,000 savings). The mayor has stated this contract is the best contract the City has ever negotiated with the Police Association, particularly with respect to management rights. I have to agree with this last claim. The Association made major concessions in this area. This is another example of how binding arbitration benefits the City also.

FACT: Without PERA the City took advantage of its employee's lack of protection; resulting in numerous grievances and law suits; disruption of service and violation of the principles of collective bargaining when employees were forced under the City's Personnel Ordinance.

FACT: Class One Employee Contracts contain the same or in many case less benefits than other employee contracts. Surely if Class Ones had a strangle hold they would have equal or greater benefits.

STATEMENT: The mayor claims the arbitrator cannot consider the economic condition of the City while making a decision.

FACT: The arbitrator not only can but SHOULD AND DID consider the economic condition of the City when making his decision. The arbitrator based his decision in part on the mayor's comments that the City had money and was not in financial trouble when awarding the 3.1% COL increase for 1985/86. (See attached articles from the Fairbanks Daily News Minor.)

STATEMENT: Anchorage is not under PERA.


FACT: Anchorage DOES have PERA in the form of it's own ordinance. The Anchorage version of PERA also allow for binding arbitration with its Class One Employees.

If harmony, stability and cooperative relations between the City and its employees are still important in maintaining public protection through effective and orderly operation of government, then you must void SB 372.

If the principles of collective bargaining were valid in 1972 then they are valid today and will be valid in the future. The only way to safeguard these principles for municipal employees against abuse by local government, is to include them in PERA and require municipalities to comply with PERA.

Thank you for the opportunity to express my view point and please support collective bargaining for ALL of Alaska's public employees by voting NO on SB 372.

Sincerely,

  
Mike A. Nielsen

## Proposed police pact before council again

A proposed three-year contract with Fairbanks Police Department rank-and-file employees that includes a 4.36 percent raise in 1989 was the subject of a two-hour closed meeting by the Fairbanks City Council Monday night.

The council recessed after midnight, intending to resume meeting in private at 7 a.m. today to take up discussion on the status of two other contract negotiations. An evaluation of the city manager apparently will be delayed until after the next regular council meeting, May 18.

Before breaking Monday night, the council returned to public session and without objection advanced the police contract ordinance to public hearing and second reading.

Earlier in the evening, Councilman John Immel had indicated he would vote against advancing the ordinance to approve the contract. Councilman Lowell Purcell moved to postpone action until after the executive session.

The proposed contract would set a 1.21 percent wage cut, total, over 1987 and 1988, but then give police employees a raise in the third year. New hires would no longer receive longevity pay up to 10 percent over base pay, they would receive less certification

pay and have less leave time. Shift premiums would be raised in 1988 and 1989, and employees would give up one personal holiday and take reduced court and recall time and reduced clothing and cleaning allowances.

Last November, a state arbitrator ordered the city to pay \$88,196.37 back pay to about 50 members of the police bargaining unit. The pay had been part of a contract provision allowing a wage opener in 1985. The arbitrator's finding was that Fairbanks police workers were paid less than in Anchorage, the city had ability to pay the 3 percent increase and economic arguments should have applied only to 1985 and the first half of 1986.

Still in negotiations are contracts with city firefighters and the Operating Engineers. The latter is at impasse and a federal mediator met with both sides in an unsuccessful attempt to get talks moving.

During the council's regular meeting prior to the executive session, an ordinance to offer early retirement incentive pay to city police sergeants only was advanced for consideration May 18. Council members questioned why only one group of employees is being given the offer. City Manager Brian Phillips said it was part of a binding arbitration decision.

# Walley turns against downtown hotel

By SUSAN FISHER  
Staff Writer

Eliminating the "bar block" spurred private construction downtown, Fairbanks Mayor Bill Walley said Friday, but he no longer believes a first-class hotel should be built at the western end of that block.

"I am no longer for a hotel project" there, Walley said, citing the opening of the Regency Hotel on Tenth Avenue and Sophie Station off University Avenue and Airport Way as taking a good share of any prospective market.

Walley is seeking a third term as mayor, and faces opponents Randall Wallace, Robert Taylor and Ruth Burnett in the Oct. 7 election. Walley appeared Friday before the Farthest North Press Club.

His statement on the hotel comes as the Fairbanks Development Authority continues its efforts to secure a commitment from a developer based on interest by architects, a mortgage finance company and the

Sheraton chain. The FDA plans by December to make a decision on building an underground and surface parking lot in the middle of the block.

The "bar block" is a reference to the block bounded by First and Second avenues and Cushman and Lacey streets. A string of bars was acquired by the FDA and demolished in anticipation of a first-class hotel being built.

Walley said the removal of the bars, though, prompted major private construction downtown. He pointed to the Nerco Mineral Building and the First Interstate Bank building.

Tanana Valley Community College's plan to locate in the Chena Building on the eastern end of that block, and the new parking structure should entice private development at the western end. Walley said he's privately met with resource-related businesses encouraging them to consider locating managerial and maintenance personnel in Fairbanks.

The mayor also soundly re-

futed any references to a city budget deficit. He said the city does not have a deficit because it has a \$5 million permanent fund, which only voters can approve spending, a \$2.6 million balance in the sales tax fund and perhaps other surplus funds. But as the 1986 budget stands, there remains a projected shortfall of \$2.15 million between approved expenses and expected income, following the city manager's announcement this week that \$2 million is being cut.

"The city is in awfully good shape. We have not put on a sales tax. The property tax is now 2.8 mills—that's the lowest property tax of any city in Alaska. You might find one that's lower, but I don't think you will," Walley told reporters.

He said city residents' property taxes have not been raised in his four years as mayor. Walley also said that with Gov. Bill Sheffield's defeat in the primary, he expects the successor will resume an emphasis on

state assistance to municipalities.

As a former borough assemblyman, Walley said he introduced some of his own tax cap proposals, though none as restrictive as the Fairbanks Tax Alliance's Proposition 3 initiative. A city council-approved alternative, Proposition 1, would allow the council to raise local taxes to make up state and federal funding cuts, which the alliance's proposal would not. Walley said he will vote for Proposition 1.

Asked what would happen if voters approve both propositions, the mayor said he wasn't sure, and probably lawyers would have to decide.

Walley also refuted Bob Taylor's charge that two utility board members have at least an apparent conflict of interest in considering a recommended sale of the telephone utility. One of them, Frank DeLong, used to own an interest in Acme Electric. Walley said DeLong no longer has that interest, and the



**BILL WALLEY**  
*Market dwindles*

mayor said none of the members has a conflict, and there is a pronounced mix of views and philosophies on the board. The mayor appoints those members.

The part-owner of KFAR radio, Walley also announced Friday that he and his partners plan to put KWLF-FM on the air this October or November, and that they've invested in a \$75,000, 10-kilowatt transmitter for KFAR.

PUBLIC OPINION FORM

POM's are limited to 25-50 words. These messages are transmitted via omnicom to Juneau by our staff on a time-available basis.

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DATE 2-17-88

NAME Martin E. Gutowski

REPRESENTING FNSB - APEA

MAILING ADDRESS Box 80197

College ZIP 99708

PHONE (HOME) 489-0927 (WORK) 452-4761 X260

TO: Senate State Affairs Committee (members)

REGARDING: SB 372

MESSAGE: I am opposed to the possible option this bill gives to municipalities to overtly de-certify by legislation the collective bargaining rights afforded to public employees. This bill represents state sanctioned union busting!

SIGNATURE M. E. Gutowski



# Alaska State Legislature

Please enter into the record my testimony to the \_\_\_\_\_

committee name

committee on SB 372, dated 2-17-88  
bill/subject

we ALL HEARD DANN GILBERT FROM FBKS. STATE  
SHE (AND OTHERS) WERE IN FAVOR OF SB 372 SO THEY COULD  
USE THE (OFF OUT) AS A HAMMER TO GET WHAT THEY  
WANT OR ELSE. WITH STAFF CUTBACKS YET DEMAND OF  
SAME WORK LOAD, WE DON'T NEED ADD. STRESS OF NOT  
KNOWING FROM ONE WEEK TO NEXT IF WE'RE GOING TO  
BE IN OR OUT OF PERA. THE UNION EMPLOYEES AT  
F.N.S.B HAVE NOT HAD A PAY RAISE IN 4 YRS.  
NOW AND HAVE A CURRENT CONTRACT THROUGH 6-30-90  
WITH NO BASE SALARY PAY RAISE. I AM AGAINST  
SB 372.

Signed: \_\_\_\_\_

Testifier

Representing (Optional)

Address

Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs committee name

committee on SB 372, dated February 17, 1988  
bill/subject

I'm a past Vice President and President of the Fairbanks Police Dept. Employees Assoc. I participated in contract and wage negotiations with the City of Fairbanks. The negotiations occurred prior to the City of Fairbanks participation in PERA. (1980-1981) -

Prior to PERA the negotiations were not collective bargaining because the city simply offered what they wanted and the police employees had no recourse. The professionalism of the police employees resulted in no job actions such as strikes and sick-outs. This led to a great deal of frustration on the part of police employees. Fortunately we did receive pay and benefit increases due to the prosperous economy. This was also a result of very low wages paid during the early 1970s and the increases were somewhat of a catch-up situation.

Now in the face of poor economic conditions allowing the city to opt out of PERA could result in drastic wage and benefit cuts, and probably lead to the city not negotiating future contracts with police employees. Lower wages and benefits would reduce the quality of people hired as police officers in Fairbanks. The lower quality applicants would result in increased citizens complaints, civil rights complaints and costly lawsuits against the city. Lower pay, less professional ethics could also encourage police corruption.

Signed: Frank W. Collett, Jr. Frank W. Collett, Jr.  
Testifier

Fairbanks Police Dept Employees Assoc.

Representing (Optional)

P.O. Box 621 Fairbanks AK 99707

Address

44th St

Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the SENATE STATE AFFAIRS  
committee name

committee on SB 372, dated 2-17-86  
bill/subject

MY NAME IS DON ALLMOND, SR. PERA DOES WORK. IN ECONOMIC HARD TIMES, CITY EMPLOYEES HAVE DONE MORE THAN THEIR PART WITH CONCESSIONS. I PERSONALLY HAVE SUFFERED A 3+% WAGE & BENEFIT CUT IN ORDER TO HELP OUR CITY. THIS WAS DONE WHILE UNDER PERA. TO ALLOW OPTING IN AND OUT OF PERA WOULD TAKE THE FULL INTENT AND BACKBONE OUT OF ANY MEANINGFUL COLLECTIVE BARGAINING. IT IS CLEARLY A UNION BUSTING MOVE. WITHOUT PERA, LOCAL GOVERNMENT EMPLOYEES WOULD BE SUBJECT TO EXTREME PHILOSOPHICAL CHANGES AT ALMOST EVERY LOCAL COUNCIL ELECTION. PERA ALLOWS LOCAL GOVERNMENT EMPLOYEES THE STABILITY REQUIRED TO BE TREATED FAIRLY. UNLIKE THE PRIVATE SECTOR, WE DO NOT HAVE THE PROFIT SHARING OR ADVANCEMENT INCENTIVE THAT THE PRIVATE SECTOR OFFERS. ALL GOVERNMENT EMPLOYEES HAVE A SET WAGE, WORKING CONDITIONS AND RETIREMENT PLAN. WITHOUT PERA, WE WOULD NOT HAVE ANY WORKING STABLE LABOR GUIDELINES.

Signed: [Signature]  
Testifier

DON ALLMOND, SR.  
Representing (Optional)

SELF

Address  
1103 NENANA ST, FAIRBANKS, AK 99709

Phone No. 479-4913



# Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs Committee  
committee name  
committee on PERA SB 372, dated Feb. 17, 1988  
bill/subject

see attached copy!

Signed:

John K. Arneson  
Testifier

Representing (Optional)

P.O. Box 2214 Fbks. AK, 99707

Address

488-2415

Phone No.

Testimony to Senate State Affairs

Senate Bill 372

February 17, 1988

My name is John Frisone. I've been a professional Fire Fighter for fourteen and one half years and a resident of the Fairbarks Area for over seventeen years.

I strongly oppose S.B. 372 and support the right of municipal employees to bargain collectively. Without binding arbitration as a vehicle for impasse resolution there is no future for collective bargaining between Public Safety employees and the City of Fairbarks.

The right to strike is not a viable solution. We feel that striking is not morally acceptable to public safety employees, not acceptable at all to the public, and would not be allowed by the courts.

Senator Fanning, in a January 28, 1988 Daily News Miner article promises fair and beneficial treatment to municipal employees. Myself and

others have fought long and hard to achieve just the treatment Senator Fanning alludes to. And its called PERA. In 1983 the City council voted unanimously to place the City under PERA. This action was not vetoed by the existing mayor. I have much more faith in the text of PERA than in the word of an Alaskan Senator who does not support local hire.

In the face of State and Federal revenue sharing reductions Fairbanks has a local problem. One of misguided leadership and fallen revenue. Many other communities within our State have had to deal with similar revenue reductions. Their healthy approach was to pull up their suspenders and pay their own way. Unlike Fairbanks they chose to share the responsibilities by imposing sales

taxes, and paying more than 2.8 mills in property taxes. In the past two years Budget Committees and Council persons have urged increases in revenues. Only to be vetoed by the City Mayor. As late as January a resolution to opt out of PERA was dropped by the City Council for failure of a second.

On the other end of the spectrum, city employees have been concessionary during these hard times in wages, benefits, and unfortunately margins of safety.

I would like to urge you all to once more make Fairbanks a place of pride, where the community carries its own weight.

Please do not pass S.B. 372 from this committee.

Thanks ;

John K. Frisone  
P.O. Box 2214  
Fairbanks, AK. 99707



# Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs  
committee name

committee on SB 372, dated 2/17/88  
bill/subject

I was present at the Wednesday teleconference but did not have an opportunity to testify.

I speak on behalf of approximately 300 employees of the City of Fairbanks and the Fairbanks North Star Borough who are APEA members and covered by collective bargaining agreements.

- 1) Public employees want the right to share in decision-making regarding wages and working conditions because it makes for a more effective and stable government.
- 2) Allowing local governments to opt out of PERA disrupts the power balance collective bargaining brings to labor management relations.
- 3) The Fairbanks City Council does not support changes to PERA as evidenced by proposed Resolution 2936 that failed due to lack of a second.
- 4) In a letter dated February 1, 1988, Janita Helms, FNSB Mayor, urged Senator Atwood to defeat SB 372 because "as a strong supporter of collective bargaining, [she] sees this bill as the beginning of the end for public employee collective bargaining."
- 5) In a memorandum dated Feb 16, 1988, Fairbanks City Manager Brian Phillips interpreted the City Council's action of a resolution 2936 to be "the City Council's support, by →

Signed: Bett Schaffhauser BETT SCHAFFHAUSER

Testifier /

Alaska Public Employees Association

Representing (Optional)

825 College Rd Fairbanks 99701

Address

456. 5412

Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the State Affairs  
committee name

committee on SB 372, dated 2-17-1988  
bill/subject

Dear Senator Abood and Committee Members

I ask you to oppose Senate Bill 372. I am a Class I public employee of the Fairbanks Fire Department. The legislature and the court system have determined that the function of myself and similar public safety employees is vital enough to a community to dispense with normal collective bargaining rights such as job actions and strikes. Therefore, I will be ordered by the court to return to work if I should strike. This occurred some years ago in Fairbanks.

Other employees enjoy the right to collectively bargain and to negotiate fair contracts agreeable to both sides. In the event that agreement cannot be found, the employees have the right to say "we are unwilling to work under these conditions" and to strike if need be.

Our functions are such that job actions such as this cannot be tolerated, for if Class I employees strike, lives and property will be in jeopardy. This I can understand and accept. But by denying my right to these actions you are denying me a right that other citizens enjoy. In effect I would be a second class citizen. What reaction did the legislators have when they were ordered back into session some years ago and the Alaska State Troopers were sent out to force them to comply?

We are not asking for the right to strike. We are asking to be able to negotiate a fair agreement. If such agreement cannot be met it SHOULD go to a FAIR and UNBIASED arbitrator selected by BOTH sides. If PERA is not available, then there is nothing to prevent municipalities from dictating conditions of employment.

In answer to some testimony presented during the tele-conference by Mayor WALLY, I offer a Memorandum from our Fire Chief dated 16 July 1979. This memorandum confirms verbal notification that the City of Fairbanks no longer recognizes the provisions of the contract between themselves and the Firefighters Local 1324. Changes in employment conditions included ("but were not limited to") changes in pay rates, annual leave, sick leave, grievance procedures, longevity, overtime rates and probationary periods. Union dues would no longer be collected. The union was no longer recognized and seniority rights for layoff purposes were no longer recognized. So much for honoring contracts.

Continued

Signed:

Eric James Mohrman  
Testifier

Representing (Optional)

656 7th Avenue Fairbanks, Alaska 99701

Address

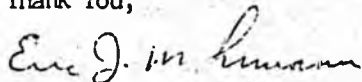
479-5294

Phone No.

If we don't learn from the past we are doomed to repeat it. In Alaska we don't even have to learn from the past. We can look at the current situation in smaller communities across the state and see that the rights of the public safety employees have been abrogated by cities that have opted out of PERA.

I urge you to defeat this bill in your committee. Since when in this country has the rights of the many or powerful been sufficient to take away the rights of the few or weak?

Thank You,



Eric J. Mohrmann



# Alaska State Legislature

Please enter into the record my testimony to the \_\_\_\_\_

committee name

committee on PERH SB372, dated 2/17/88

bill/subject

*I want to voice my opinion in opposition to this bill. I feel it is unfair.*

Signed: \_\_\_\_\_

*William L. Woody*  
Testifier

Representing (Optional)

PO Box 55157 N. Pole Ak 99705

Address

(907) 488-0276

Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs  
committee name

committee on S.B. 372, dated February 17, 1988  
bill/subject

I wish to register my opposition to SB 372, which would gut PERA.

Public employees aren't responsible for the economic crisis local and state governments are now experiencing. You should not attempt to solve that problem by taking benefits away from workers. Public employees have been responsive to the fiscal crisis and have voluntarily contributed to the solution. This was done through and within the framework of collective bargaining. Obviously, collective bargaining does not preclude such cooperation. Public employees are concerned citizens and taxpayers, too.

It is dishonest to ignore the fact that this bill will allow a city or borough to deny employees the right to collective bargaining. Management will then be free to unilaterally set wages and other working conditions. This is a clever and insidious maneuver that strikes at the heart of collective bargaining. Pleading your intent for this bill is irrelevant; it is the results that count.

Giving public employees a right to share in decision-making regarding wages and working conditions makes a more effective government. Even the legislature has recognized this. Demoralizing employees is counter-productive for everyone.

Allowing local governments to opt out of PERA disrupts the power balance collective bargaining brings to labor-management relations.

Passage of this bill will totally destabilize employer/employee relations. Any time the assembly or city council meets, they will be able to--with one stroke of the pen, with no forewarning to employees--completely change the structure of the relationship. Why do you want to do this? Do you hate public employees so much?

I urge you to reconsider the consequences of this bill and kill it as a piece of harmful legislation. Please do not regress the status of public employees by removing the PERA guarantee of collective bargaining.

Thank you.

Signed: \_\_\_\_\_

*Rachel Boyd*  
Testifier

\_\_\_\_\_  
Representing (Optional)

P.O. Box 75306, Fairbanks, AK 99707

\_\_\_\_\_  
Address

452-4761 x260 wk 452-7509 hm

\_\_\_\_\_  
Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs  
 committee name  
 committee on #372, dated 2/17/88  
 bill/subject

Defeat of this bill and preserving  
 PERA will maintain the integrity of  
 negotiations between employees and  
 management (City and Borough).

Deadlock positions can be resolved by  
 binding arbitration, & therefore  
 recommend defeat of this bill 372.

Signed: Ray Wornock  
 Testifier

Representing (Optional)  
P.O. Box 1287 Fairbanks AK 99707  
 Address  
488-9804  
 Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs  
committee name

committee on Senate Bill 372, dated Feb: 17, 1988  
bill/subject

We the workers of the Fairbanks North Star Borough  
and the City of Fairbanks and all workers covered  
under PERA must unite now to defeat Bill 372  
which will return our Collective Bargaining Rights to  
the "Dark Ages" where we had no voice in  
how we were paid or treated on the job.  
Hordes of "Political Appointees" will be able to take  
our jobs away when we lose the protection of our  
Unions and Employee's Associations.

We must fight for our right to Collective  
Bargaining which is our right in a free  
Society.

We must and will defeat Senate Bill 372  
and all the Legislators who support it.  
You have my word I will work for that.

Please! Help us preserve our Job Rights as  
outlined under PERA.

Signed: A. Elaine Womack  
Testifier

I work for Fairbanks North Star Borough  
Representing (Optional)

My address: PO Box 1287, Fairbanks, Ak. 99707  
Address

Home: 488-9804  
Phone No.



# Alaska State Legislature

*Senate State Affairs JB*  
~~Committee on~~

Please enter into the record my testimony to the \_\_\_\_\_ committee name

committee on HB 372 (PERA), dated 1-26-88  
bill/subject

My name is John Baus. I am a Police Detective and have been directly employed and engaged in Law Enforcement in Interior Alaska for nearly twenty years. I've worked for the City as a contract employee with and without binding arbitration, and under the Personnel Ordinance. We have enjoyed fair and equitable negotiations over the years on both sides of the bargaining table. There have been times when agreement could not be reached on certain items. Because the City and Fairbanks Police Department Employees Association have agreed to binding arbitration, a third, disinterested party, have settled these matters. Two (2) matters have been settled; one on behalf of the City, and one on behalf of the FPDEA.

The Fairbanks City Council decided to put the issue of revenue in the hands of the voters. The result has been a reduction in services because of employee layoffs, furthering the economic decline in the Fairbanks Area. This had nothing at all to do with arbitration as some Interior Taxpayers Association members would have you believe. The Police Department is still struggling with insufficient personnel to accomplish its goals of citizen safety and timely response.

By allowing the City to opt out of PERA now would undermine employees ability to share in the decision making process, which is the reason the Legislature passed this law in the first place. You, as legislators recognized that Government is made more effective when employees and administrators can exchange information and ideas about operating Government. This give and take between Employer and Employee serves to better protect the public by assuring cost efficient and dependable operation of Government.

Before the City recognized the FPDEA as a collective bargaining unit, the working conditions were some of the worst imaginable. The Turn-over rate for Police employees was extremely high. People were fired from their positions at the whim of the Administration. Human rights and civil rights violations were common. Lawsuits because of inadequate training or improper behavior were litigated regularly.

Class I Employees, namely, Police and Fire Personnel, do not have and do want to have the right to strike. Because no other means of effective and fair collective bargaining is available to this class of employee, collective bargaining backed up with binding arbitration is absolutely necessary. Binding arbitration works for both sides in a dispute. This procedure has been refined over the years and serves to protect the interests of Employee and Employer.

FINALLY, I URGE YOU TO PUT AN END TO THIS LEGISLATION AND TO KILL SB 372.

Signed:

Testifier

*John Baus*

Representing (Optional)

*364 Andy Drive Fairbanks Alaska*

Address

*456-3137*

Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs  
committee name

committee on SB 372, dated February 17, 1988  
bill/subject

My name is Tim Beck, President of the Alaska Public Employees Assoc. I object to SB372 and urge its defeat. It is a strongly devisive issue usually not argued on merit or logic but emotion from its supporters. Historically public employees have foregone opportunities to better paying positions in return for the security offered through public employment. By delving into P.E.R.A. (AS23.40) SB372 is lending instability to local governments. It's a "quick fix" bill to allow budgets to be balanced on the backs of public employees. Nothing, I repeat, nothing, replaces the benefits achieved by proper management and planning of local goverments. Currently the local Borough Assembly and City Council have final approval of all contracts now. All this bill does is allow for continuation of poor management and policies, knowing if there's a problem, just take it from the employees. We object strongly to that stance.

See attached position statements from local government leaders, either elected or staff representatives.

Signed: \_\_\_\_\_

Testifier

Alaska Public Employees Association

Representing (Optional)

825 College Road

Address

Fairbanks, Alaska 99701

456-5412

Phone No.

MEMORANDUM

TO: Honorable Mayor, and City Council Members,  
City/PMUS Department Heads  
Union Business Agents & Stewards

FROM: BRIAN C. PHILLIPS, City Manager

SUBJECT: Public Employment Relations Act (as23.40)

DATE: February 16, 1988

The City Council on January 25, 1988 defeated, by non-advancement, a resolution opposing the continuance of certain PERA provisions. I interpret this policy setting action to be the City Council's support, by majority, for a status quo relative to the provisions of PERA. Therefore, unless otherwise legislated by the Fairbanks City Council, this office and all department heads of the City will refrain from giving any new written or oral testimony, recommendations, or interviews relative contrary to this policy position.

Over 60% of the City's \$80.7 million dollar budget involves unionized personnel covered under this act; This directive affecting City employed personnel is intended to clarify this City's status quo position on PERA, relative to the recent action by the Fairbanks City Council, and to once again build upon the positive working relationship between the City and our employees.



BRIAN C. PHILLIPS  
City Manager

BCP/sam

cc: Interior Delegation

Introduced by: Council Member Cleworth  
Date: January 25, 1988

RESOLUTION NO. 2936

*Failed 1-25-88*

A RESOLUTION OPPOSING CONTINUANCE OF PERA PROVISIONS FOR BINDING ARBITRATION FOR MUNICIPALITIES.

WHEREAS, THE CURRENT PROVISION IN THE ALASKA Public employees Act (PERA) providing for binding arbitration of labor disputes for certain classes of public employees applies to the City of Fairbanks; and

WHEREAS, said provision for binding arbitration takes away from local government the ability to determine its own future and goals with any degree of certainty, deprives the public of final authority over municipal labor terms and policies and gives the power of binding the public to important financial decisions and labor policies to a third party who is not answerable in any manner to the public; and

WHEREAS, it would be within the best interest of the city to be free of the binding arbitration provision of PERA.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, that it is opposed to the continuance of said binding arbitration provision and strongly recommends the amendment of PERA to delete this provision and its applicability to municipal governments.

PASSED and APPROVED this 25th day of January, 1988.

BILL WALLEY, Mayor

ATTEST:

NORMA J. MARKS, Acting City Clerk

 Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 1267

Fairbanks, Alaska 99707

452-4761

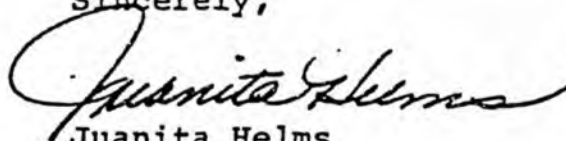
February 1, 1988

Honorable Mitch Abood  
Chairman  
Senate State Affairs Committee  
P.O. Box V  
Juneau, AK 99811

Dear Senator Abood:

I urge you to defeat SB 372. As a strong supporter of collective bargaining, I see this bill as the beginning of the end for public employee collective bargaining.

Sincerely,



Juanita Helms  
Borough Mayor

JH.  
cc: Members, Senate State Affairs Committee  
Interior Delegation



# Alaska State Legislature

Senate State Affairs *JB*

Please enter into the record my testimony to the ~~CONSTITUTIONAL REFORMERS~~ committee name

committee on HB 372 (PERA), dated 1-26-88  
bill/subject

I am writing <sup>this</sup> letter as there was not time allotted for all to testify at the teleconference on Feb. 17, 1988. I have been a police officer for 13 years with the City of Fairbanks and have been under both programs (in PERA and out of PERA) during that time. The City of Fairbanks opted to go into PERA after the city allowed ~~thier~~ employees to negotiate contracts with the City. Since that time binding arbitration with the police department has occurred on two occasions. The city has won one of the cases and the employees have won a case. The remainder of the bargaining has been both fair and equitable to both sides, with contracts being signed without binding arbitration.

Since the City of Fairbanks has decided not to raise revenue, they have attacked the public employees as the "bad guys" who have caused all the revenue problems with in the city of Fairbanks. This is simply not the case at all. The city of Fairbanks has known for two years that they were going to be short revenues if they continued to sit back and do nothing while they paid out salaries to ~~thier~~ employees. Concessions have been made with the city to alleviate the money crunch. The police department took a ten percent pay cut in wages to help out the city in the time of crisis. Since that time however; Brian Phillips the City Manager for the City of Fairbanks has publicly stated that in order to balance the budget then PERA must be stricken from the books. While it would be nice to be able to trust the City of Fairbanks, realistically that is not possible as they have proven time and time again that they would take advantage of their employees. With all the special interest groups that have formed since this issue began, I don't see how the City could be fair with out binding arbitration. Several groups have singled out the public employee as the problem that has caused the cities around the state of Alaska to face monetary problems. I don't see the public employee as the whole problem that the state is facing. State and local government employees spend ~~thier~~ money within the state just like private employees. The more money there is the more money is spent. These special interest groups would like to see government employees work for "peanuts". When considering this bill please don't consider the selfish few but the vast majority of loyal government workers who are signed: trying to make this state a better place to live and grow.

Testifier

*PAUL A. Keller PAIC*

Representing (Optional)

*4448 STANFORD DR.*

Address

*479-0764*

Phone No.

# Mayor Walley sees no reason to panic

By MARGARET NELSON  
Staff Writer

While the city council is pressing for ways to make up a deficit in this year's spending, which latest estimates put at \$4.2 million, Mayor Bill Walley says he doesn't see why everyone is in a panic.

Meanwhile, measures reducing the city council's and mayor's pay and per diem allowances by 20 percent are the first budget cutting measures the council will consider at its meeting Monday. The meeting takes place in city council chambers, 620 Fifth Avenue, beginning at 7 p.m.

Councilman Ted Lehne said today he's introducing those measures, as well as a proposal to increase the city's administrative charges to state grants, as an effort

to start balancing the budget.

"We've got to get on with it," Lehne said. "We've known since we adopted the budget that there would be a deficit and we haven't done much constructive yet. It's way past time."

The projected deficit for this year, according to the latest city figures, could be as high as \$4.2 million. However, City Manager Wally Droz said today it's really too soon to tell if that figure is high or low. Council members Monday asked Droz to give them some recommendations on budget trimming measures. Those recommendations may be forthcoming Monday.

Walley continues to say that the money needed to balance the budget can be raised by tapping un-

(See MAYOR, page 3)

## MAYOR

(Continued from page 1)

designated funds in an unappropriated surplus account totaling \$5.7 million, \$5 million in the Permanent Investment Fund and tax money of more than \$1 million, and by cutting departments by 15 percent, taxing gambling and liquor and increasing bed taxes.

"I can't understand why people are in such a panic," Walley said. However, there's some problems

with using money in the funds Walley mentioned.

The \$5.7 million unappropriated surplus account serves as the city's operating and cash reserve account, said Finance Director Bob Wolting. The city needs most of that reserve to cover, for example, the bi-monthly payroll and bills.

It would take a vote of the people before money could be taken out of Permanent Investment Fund.

## CREDITS

**Mayor says it's too regressive**

# Walley vetoes sales tax

By SUSAN FISHER  
Staff Writer

Lacking the five votes necessary to override Mayor Bill Walley's sales tax veto, the Fairbanks City Council is to meet at noon Wednesday to explore other options for balancing the city's 1986 budget.

Walley vetoed a 3 percent sales tax Friday, calling it "the most regressive tax that our people and economy can face" because it puts the most burden on the middle class family consumer.

The mayor, a candidate for governor, is in Anchorage campaigning, but called his instructions to City Clerk Carma Roberson Friday

and was to send his signed veto message by express mail.

Within an hour of Walley's notification, Acting Mayor Ted Lehne called for the work session.

Both Lehne and Councilman Lowell Purcell told the Daily News-Miner they informed Walley they would not vote to override his veto, and Councilman Jerry Norum is expected to miss the June 23 meeting. The six-member council passed the sales tax measure Monday on a 4-2 vote, with Lehne and Norum opposing it.

The council has a number of choices, but the challenge facing it is to find a common ground and a

plan that will escape another veto, Lehne said.

Since January, the city has been operating under a \$23 million calendar-year budget that is expected to exceed income by \$5-6 million. Only half a year remains to close the gap.

But the city also holds some \$6.8 million in its unappropriated fund and has a \$5 million permanent fund, which only voters can approve spending.

In a lengthy veto message, Walley again suggested a gambling tax on bingo games and raffles and a tax on luxury items. He endorsed Lehne's suggested approach of li-

imited taxes, digging into the surplus fund and cutting expenses.

Prior to Monday's sales tax vote, Lehne had proposed alternatives including limited taxes on such items as cigarettes and tobacco products, gasoline and restaurant meals, and raising city garbage collection fees, digging into the unappropriated fund and cutting some expenses.

Friday Lehne had another proposal. He said he would like the council to consider dropping the 4 percent franchise fee charged to Fairbanks Municipal Utilities System, and move instead to a 4 percent  
(See VETO, back page)

## VETO . . .

(Continued from page 1)

electricity tax. Half the city's electric customers are served by Golden Valley Electric Association, and the electricity tax on customers of both utilities would raise more money than the MUS franchise fee does, he said.

Lowell Purcell voted for the sales tax, but said he won't vote to override the veto.

He said the tobacco tax appeals to him, but he can't go along with a gasoline tax at a time when gas prices are so competitive it could drive business outside the city, and he's also reluctant about a restaurant/fast food tax.

"Gambling, I would support a tax like that, although I understand

public pressure pretty well shot that one down last time," he said.

Another option is raising city property taxes. In passing the sales tax, the council Monday set the 1986 mill levy at 2.8 mills.

Walley spoke to that issue in his veto message. If the council can't agree on a plan, he said, "then maybe we should just ask the voter to settle once and for all whether the people would prefer a 3 mill property tax increase or a sales tax."

The mayor pointed to a 1985 advisory vote in which 86 percent of city voters said no to sales tax, and said the sales tax is a burden on businesses, is difficult to collect and drives up costs to consumers.

# Walley would veto 9-mill levy plan

NET NELSON  
Writer

Property tax rate more than triple to city's proposed city manager Wally Droz members in his annual

Bill Walley says he'll allow property

taxes to increase that much and that he'll seek cuts in Droz's \$23.8-million spending proposal.

Droz is recommending the city set 1986 spending at \$23,871,507, up about 6 percent from this year's approved budget of \$22.5 million. No deficit is projected, using the projected assessed valuation and 9-mill levy, in Droz's 1986 proposal.

Property taxes for 1986 would pay \$9.6 million of the city's costs.

"It is going to initially take 9 mills to fund this proposed 1986 budget," Droz said in a message included with the budget made available to the six council members and the mayor late last week.

This year city residents paid 2.8 mills in property taxes plus 7.3

mills in borough taxes. The highest city's mill rate was in 1960 when the city levied 18 mills. During the pipeline years of 1973 to 1976 the city's mill rate ranged from 12 to 10 mills. One mill equals \$1 in taxes for each \$1,000 in property value.

Droz this morning said the 6.2-mill increase is needed to cover the proposed budget increase of 6 per-

cent, because of the big drops in city revenues. Chief among those funding sources now drying up are state and federal revenues, plus less interest earned on investments because of the smaller revenue.

In 1984, the city got \$3 million interest on investments; Droz projects the 1986 interest at \$1.5 million. The city expects state muni-

cipal assistance to drop \$600,000 next year, leaving \$4.2 million. State-shared revenue, estimated at \$3.5 million this year, is expected to drop to \$1.4 million.

"I don't think I'm going to allow a 9-mill levy," Walley said Monday. "I'd veto it in a minute."

"I'm not too happy with that (See BUDGET, back page)

ET . . .

(inued from page 1)

Walley said, adding he believed the council can cut 10 percent in spending budget proposal.

Walley plans to announce a schedule of budget meetings at the next meeting Monday. In the meantime he says he'll meet with the council this week to seek ways to reduce the budget. The council, under Walley, must approve the budget by October 31.

Walley is reducing the 1986 budget to \$22.5 million, as Droz pointed out several

percent of the proposed 1986 budget goes to pay the wages and benefits of 281 city employees. This year's budget includes 24.5 employees.

Walley says employees, with the exception of top management, are

now represented by a union or association and have contracts with the city.

- Income investments were expected to receive \$2.2 million this year. However, in September the city had only received 55 percent of that figure.

- It was estimated that the city's assessed value would reach more than \$1 billion this year. But the city's value only reached \$998 million, resulting in less income for the city.

- The city's busy construction season resulted in the city selling \$286,593 in building permits through the first eight months of 1985. The city had only projected receiving \$250,000 for all of 1985.

Droz said in his budget message that from 1974 to 1980 the city experienced some "slack periods of

tough-to-get revenue" and "tough budgets." He pointed out that from 1974 to 1980 the city levied a property tax ranging up to 11 mills while at the same time levying a 3 percent sales tax.

The most expensive department in the city is the police department, according to the budget document. Police spending is proposed at nearly \$5.7 million, up from this year's \$5.4 million. If property taxes alone funded that department it would take 5.5 mills, Droz estimates.

The next most expensive service the city provides is fire protection. Spending in that department is proposed at \$4.75 million, down from this year's \$4.8 million.

Other major departments are public works with proposed spending at \$3.86 million and engineering with spending at \$1.9 million.

TESTIMONY TO SENATE STATE AFFAIRS COMMITTEE  
SENATE BILL 372

April 6, 1988

My name is Barry Haight; I represent the Fairbanks Fire Fighters Association and the Interior Public Employees Coalition. Both organizations maintain strong opposition to Senate Bill 372, and challenge the stated reasons for the introduction of this legislation.

This committee has been told the bill is needed to provide relief for the City of Fairbanks; yet this past week, for a second time, the Fairbanks City Council has refused to support S.B. 372. Nonetheless, S.B. 372 remains before you along with the misleading claims and inaccurate assertions made by some of those who support the bill.

Mr. Chairman, I have a copy of a booklet prepared by the City of Fairbanks and mailed to city residents this past September. Also, a copy of the second and, most recent, arbitrator's decision rendered in a bargaining impasse between the City of Fairbanks and an employee group. I ask that they be entered into the record. I have copied several pages from the city booklet for committee members and would call your attention to certain facts.

On the first page is a graph demonstrating concessions and the percentage amount by bargaining unit. There is no relationship or meaning in the differing amounts nor should one be construed.

Every city union made concessions and dealt with city management independently. Furthermore, the percentage amounts do not tell the whole story. The percentile indicated includes not only base wage but overtime rates, fringe benefits, and, in some cases, contract language affecting work rules and subsequent cost to the city. It has been stated to this committee that because public safety employees did not give enough, further layoffs will be necessary. A look at the second page demonstrates that while the percentage amount given up by fire fighters is, as some would say, only 7% the dollar savings to the city is a substantial \$16,301. per person; very close to the second highest per employee savings in any city department.

On that same page the city told the voter that "These reductions far exceed any cost containment measures by the State, Borough, School District, or other municipalities in the State of Alaska." The following statement was also made: "The City and the employees have acted decisively and expeditiously to lower wage costs to Fairbanks residents."

It has been claimed that because of PERA and resultant wages that Fairbanks residents have been burdened with inordinately high taxes; however, the next graph shows that taxpayers paid only about 1/7 of the cost of all city services. The booklet was signed by the Mayor and five of six Council members.

Yet, this committee has been told lack of employee cooperation is causing otherwise unnecessary layoffs. The process of binding arbitration has been vilified and various assertions made, including:

binding arbitration has occurred numerous times;

arbitrators always find in favor of the union;

arbitrators come from out of state;

arbitrators do not take into account the employers' financial status or ability to pay.

In the first instance, the number of arbitration cases is answered by a summary provided this committee by the Labor Department. The summary reveals three cases. However, I would clarify that by pointing out that the first case listed was not a mandated arbitration, but was voluntarily agreed to by the union and city representatives. Of the remaining two arbitrations; the arbitrator agreed with the city's offer in a 1985 case.

As far as where arbitrators come from and what they take into account, we can get factual information in reading the arbitrator's decision in the last case involving the city--October 1986 with the Fairbanks Police Dept. Employees Association. On the front page of the arbitrator's opinion and award is the name and address of the arbitrator. He is Dennis Geary. He lives in Fairbanks and has done so for 10 years. Starting at the bottom of page 5 Mr. Geary states, and I quote: "A pivotal consideration in deciding this issue is the city's ability to pay.."

Further reading of the arbitrator's findings are instructive and drive to the heart of what is really a local matter. I continue to quote: "The city has argued that a source of income has been substantially reduced by the current oil price fluctuation. While the city has reduced its expenditures and explored alternative funding sources, it has vacillated regarding a steadfast course of action to reduce the budget deficit. By illustration, FEDEA points to Mayor Bill Walley's veto of a proposed sales tax by the City Council, and his public statements (as recent as October 3, 1986) regarding the financial status of the city. The city argued in the hearing that reliance on Mr. Walley's statements while running for re-election, would be irresponsible. However, Mr. Walley's statements were intended to refute charges made by his opponents that the city is in a fiscal crisis. This is the same fiscal crisis alleged by the city in this arbitration." End quote. Some of those same people who denied a fiscal crisis now admit there is one; blame it on the employees and seek legislative relief by overturning 16 years of labor law. Meanwhile, they are also asking this legislature for more money and at the same time, vowing to fight any efforts to raise local revenues. They cap it all off by asking you and the employee to believe they still want to collectively bargain. We don't believe them, and ask you not to pass this bill.

Alaska Department of Labor  
Labor Standards & Safety Division  
675 Seventh Avenue, Station J  
Fairbanks, Alaska 99701

2/10/86

IN THE MATTER OF THE ARBITRATION	)	ARBITRATOR'S
MATTER	)	
	)	
CITY OF FAIRBANKS	)	OPINION
	)	
AND	)	AND
	)	
FAIRBANKS POLICE DEPARTMENT	)	AWARD
EMPLOYEES ASSOCIATION	)	
<hr/>		

HEARING SITE: CITY COUNCIL CHAMBERS  
410 Cushman Street  
Fairbanks, Alaska 99701

HEARING DATE: 9:00 am October 16, 1986

ARBITRATOR: Dennis Geary  
P.O. Box 1536  
Fairbanks, AK 99707

APPEARING FOR THE CITY OF FAIRBANKS:

HOMER JONES, DEPUTY CITY ATTORNEY  
410 Cushman Street  
Fairbanks, Alaska 99701

APPEARING FOR THE FAIRBANKS POLICE DEPARTMENT EMPLOYEES ASSOCIATION:

Gerald Laparle, Esq.  
100 Cushman Street  
Fairbanks, AK 99701

#### INTRODUCTION

At a hearing in Fairbanks, Alaska on October, 14, 1986, the parties acknowledged that this Wage Reopener had been processed in accordance with the agreement between the City of Fairbanks (City) and the Fairbanks Police Department Employees Association (FPDEA). The Wage Reopener was properly in arbitration and within the jurisdiction of the arbitrator to make a

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Labor Standards & Safety Division  
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Fairbanks, Alaska 99701

final and finding decision, as set forth in the Working Agreement between the City and FPDEA (Agreement). Accordingly, full opportunity was afforded both FPDEA and the City to present opening statements, offer exhibits, examine and cross-examine witnesses, and otherwise to make known the relevant evidence, their positions and arguments to the arbitrator. The arbitrator accepted seven (7) exhibits from FPDEA and thirteen (13) exhibits from the City. The record was reopened on October 28, 1986 by the arbitrator to obtain and enter into the record applicable portions of the Agreement. Those who testified included Norman Brake, President of FPDEA, and Paul Taylor, University of Alaska. The parties argued closing oral arguments and waived the submission of post hearing briefs. The arbitrator tape-recorded the proceedings to supplement his written notes.

#### ISSUE

The parties directed the arbitrator to determine what, if any, adjustments to compensation should be made for the period of January 1, 1986 through December 31, 1986.

#### APPLICABLE CONTRACT PROVISION

##### CITY - FPDEA WORKING AGREEMENT

1.1 This agreement shall become effective January 1, 1984 and shall remain in effect until December 31, 1986. Any retroaction contained herein will affect only those employees covered by this Agreement and actually employed by the City on the precise date this Agreement

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675 Seventh Avenue, Station J  
Fairbanks, Alaska 99701

is signed by the City and the Fairbanks Police Department Employee's Association. This Agreement shall be opened annually, on or before the 1st day of November of each calendar year. The purpose of such reopening shall be to determine adjustments to compensation only and matters mutually agreed upon.

#### POSITION OF FPDEA

FPDEA has asserted that it should receive a wage increase of 3.1% for the period January 1, 1986, through December 31, 1986. This position is essentially based upon three arguments. First, FPDEA points to a rise in the Consumer Price Index (CPI) of 3.1% covering the period of January, 1985 through January, 1986. Secondly, FPDEA contends that a wage comparison between FPDEA and the Anchorage Police Department (APD) reflects APD members are compensated 8% more than FPDEA members, exclusive of any geographic differential, for work of a similar nature. Finally, FPDEA alleges the City has the ability to pay for the requested wage increases, citing: the recent defeat of the tax cap initiative; mayorial veto of tax increases; public statements by the Mayor and the expert testimony of its witness.

#### POSITION OF CITY

The City has argued for a wage freeze during this third and final year of the contract with FPDEA. The City has proclaimed that the "state of the State" is not good and the City does not currently have the ability to pay wage increases. The City maintains FPDEA wage scales are in line with the other police agencies in the State and there are no "ancient

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Fairbanks, Alaska 99701

wrongs" to be righted. As this contract will expire on 12/31/86, the City has asked that a wage freeze be instituted, leaving all matters for consideration during negotiations on the new contract.

#### DISCUSSION & FINDINGS

Police and fire services are among the most critical services offered by government. The Alaska Legislature recognized this when it mandated binding arbitration for these groups of workers. Binding arbitration, a quid pro quo for a no strike provision, insures that there is no interruption in these services due to labor-management disputes. Arbitrator Carr (FPDEA Exhibit #4) correctly described the nature and character of "interest" arbitration in his 7/16/86 decision. The arbitrator's objective in interest arbitration is to determine what the parties should have agreed upon by negotiation. In addition however, the arbitrator must also consider the relative time frame in which the negotiations were intended to have occurred. In the instant case, negotiations began in the Fall of 1985, and theoretically should have been concluded prior to January 1, 1986. Whatever agreement the parties might have reached, would then have taken effect on that date. I have made my decision based upon these premises.

The Agreement provides that "adjustments to compensation" shall be examined/negotiated annually. The Agreement does not specify the basis for these adjustments. FPDEA has suggested the CPI would be a valid basis for such adjustments. The City has also asked that I rely on the CPI, but that I consider data generated after 1/01/86. As I have already stated, this Wage

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Fairbanks, Alaska 99701

Reopener should have been decided by 1/01/86, and consideration of trends or data which occurred after 1/01/86 would not be proper. I have therefore determined that the CPI change for the period of January 1985 through January 1986, as submitted by FPDEA, is appropriate for consideration.

In reviewing criteria for determining wage adjustments, comparable worth evaluations are also a proper basis. Police officer's wages, as with any other skilled employee, should reflect the caliber of work expected from such workers. FPDEA and the City have both presented wage comparisons for consideration, and both rely on the comparisons to persuade me their respective positions are at least partially justified. The City has asserted that while FPDEA members are not the highest paid police officers in the State, their pay is "in the ball park". Their graphs depicting initial hourly wages for patrol officers and sergeants, submitted in support of this contention, would tend to bear this out. However, FPDEA contends that a comparison of FPDEA with all other police agencies in the State is improper. FPDEA maintains that a comparison with APD is the proper one and is in keeping with the 1985 decision by Arbitration #111. I have also determined this to be the most proper comparison, but do not agree it is the only proper comparison. In this vein FPDEA, through expert testimony, has demonstrated that an approximate 5% wage disparity between APD and FPDEA exists, irrespective of any geographic differential. This disparity varies between job classifications and upon length of service, but is generally indicative of the relationship of wages between FPDEA and APD.

A pivotal consideration in deciding this issue is the City's ability to

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Fairbanks, Alaska 99701

pay. The employer shoulders the burden of producing sufficient evidence to support an inability to pay. The evidence submitted in support of this position must also be something more than speculative. The City has argued that a source of income has been substantially reduced by the current oil price fluxation. While the City has reduced its expenditures and explored alternative funding sources, it has vacilated regarding a steadfast course of action to reduce the budget deficit. By illustration, FPDEA points to Mayor Bill Walley's veto of a proposed sales tax by the City Council, and his public statements (as recent as October 03, 1986) regarding the financial status of the city. The City argued in the hearing that reliance on Mr. Walley's statements while running for re-election, would be irresponsible. However, Mr. Walley's statements were intended to refute charges made by his opponents that the city is in a fiscal crisis. This is the same fiscal crisis alleged by the City in this arbitration. Mayor Walley has pointed to a surplus balance in the sales tax and other surplus funds, with which the City might balance its budget. Consequently, the City has only produced evidence of a temporary inability to pay, which is not sufficient in and of itself to eliminate or reduce an increase warranted by other criteria.

The City has presented no legal bar regarding the City's ability to generate new/additional revenues. FPDEA has pointed to the recent defeat of Tax Cap Initiatives by the voters, which would have presented a restriction to generate additional funds. Evidence submitted during the hearing, from FPDEA's expert witness, and statements from Mayor Walley, reflect

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675 Seventh Avenue, Station J  
Fairbanks, Alaska 99701

that the tax rate within the city in recent years has steadily declined at the same time the tax base has increased. The taxing power of the City needs public support, and while that support has not specifically been shown, the Tax Cap defeat is significant. I have therefore determined that the City has failed to demonstrate an inability to pay.

In view of the above, I make the following findings:

1. A change in the CPI is a valid consideration when determining "adjustments" to compensation.
2. The CPI data covering the period of January 1985 through January 1986 is 3.1% and the most appropriate CPI data in consideration of this issue.
3. Comparable worth studies are a valid consideration when determining "adjustments" to compensation.
4. APD is the most proper group with which to compare FPDEA regarding wage rates.
5. APD employees enjoy an approximate 8% advantage in wages over FPDEA employees.
6. The City failed to produce conclusive evidence that it does not have an ability to pay.
7. A wage increase of 3.1% for the period of January 1, 1986 through December 31, 1986 is appropriate for the reasons asserted by FPDEA.

Alaska Department of Labor  
Labor Standards & Safety Division  
675 Seventh Avenue, Station J  
Fairbanks, Alaska 99701

AWARD

The adjustment to compensation (wages) applicable to all employees in the bargaining unit for the period of January 1, 1986 through December 31, 1986, shall be an increase of 3.1%.

NOVEMBER 12, 1986  
DATED

Dennis Geary  
DENNIS GEARY  
ARBITRATOR

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An Act relating to Public  
Employment Relations Act.."  
Sponsor: Fanning  
Requestor: State Affairs

Agency Affected: Labor  
BRU: Labor Standards and Safety

Components: Wage and Hour

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, CJ.AIMS						
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						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director *Stuart* Phone: 264-2452  
Division: Labor Standards and Safety Date: 2/2/88

Approved by Commissioner: Jim Sampson *Jim Sampson* Date: 2/2/88  
Agency: Labor

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

Bill No. Senate Bill 372

Date February 2, 1988

Title "An Act relating to the applicability of the Public Employment Relations Act to municipalities and political subdivisions."

Contact: Eileen Plate  
465-2700

This legislation repeals Section 4, Chapter 113, SLA 1972, which permits municipalities and political subdivisions to elect not to be covered by the Public Employment Relations Act; and replaces it with language that permits municipalities and political subdivisions to opt in, or out, of PERA coverage at will, subject to a lapse of three years between each action.

Under this bill, political subdivisions who are currently under PERA coverage would have the opportunity to opt out by adopting an ordinance or resolution to that effect. Similarly, as is provided under current law, political subdivisions who opted out in 1972 could rescind that exemption and come under PERA coverage. The only restriction placed on exercising one option or the other is that three years must have elapsed since the time an option was last exercised.

This has no practical effect on those political subdivisions who elected to opt out when PERA was passed in 1972. They may presently rescind that action by ordinance or resolution and come within coverage of PERA, as the City of Fairbanks did in 1983. However, this bill would allow those political subdivisions currently under PERA to exempt themselves from coverage, an option that does not currently exist.


The municipality or political subdivision could, at its discretion, therefore rescind rights previously extended to employees without any participation by the workers in that decision. This clearly goes against the intent of the act which is to promote harmonious employer/employee relationships. The provisions of this bill are, therefore, contrary to the principals upon which collective bargaining laws are premised.

There are presently six communities that are covered by PERA - City of Fairbanks, Fairbanks North Star Borough, City of Petersburg, Ketchikan Gateway Borough, City of Unalaska, and City of Nome. These communities could, under this bill, exempt themselves and discontinue the collective bargaining relationship at the expiration of existing contracts.

This bill is not in the interest of good management and labor relations; and the Department is opposed to it.

There is no fiscal impact on the Department.

APPROVED:



Jim Sampson, Commissioner  
Department of Labor

**POSITION PAPER/**Department of Labor

S B

385

# Alaska State Legislature

Senate Advisory Council



P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
Phone: (907) 465-3114

## MEMORANDUM

TO: Senator Zharoff  
Alaska State Senate

FROM: Sheila F. Helgath, PhD *SFH*  
Richard Rainery  
Senate Advisory Council

DATE: February 8, 1988

SUBJECT: Municipal Fisheries Taxes IR# 88-003223

You requested that the municipalities that collect an additional "raw fish tax" besides the State collected Fisheries Business Tax be identified and the methods for collection and verification be explained. The municipalities and boroughs that are collecting a raw fish tax are listed in Table One, Borough and Community Fisheries Taxation in Addition to Alaska State Fisheries Business Tax. Appendix Table One is an expanded version of Table One which lists all the communities who have processors in the state and who could potentially collect a raw fish tax. This taxation approach has been primarily implemented in Southwest Alaska where the volume of the raw fish is large. A few communities, Sitka, in particular, are considering it in Southeast Alaska. Many of the Southeast communities and the larger Southcentral and Southwest communities collect a property tax. Only 7 of the 56 communities who receive the shared revenues from Alaska State collected Fisheries Business Tax, collect additional raw fish taxes.

The advantages of the sales tax are the relative ease and lack of expense in collecting it. The disadvantage of the tax is that enforcement of the tax on offshore processors is difficult. Bristol Bay Borough had the most vigorous enforcement while Akutan relied on voluntary compliance. Enforcement ranged from audits conducted outside of the State (an expensive proposition), to reviewing Fish and Game catch data, to random audits of a few processors, to reliance on voluntary compliance. In areas where the value of the fish was high, such as Bristol Bay, monthly reports were required, in other areas quarterly reports were required.

Nearly all of the community leaders commented that they believed that offshore processors were under reporting their catch and that if the municipalities could work cooperatively with the Alaska Department of Revenue State and Local revenues would be increased. This comment was made by

officials in communities as diverse as Yakutat, King Cove, and Valdez. Another consistent complaint was the inability to project revenues without Alaska Department of Revenue data.

Table One  
Borough and Community Fisheries Taxation in Addition to Alaska State  
Fisheries Business Tax

<u>Communities and Boroughs</u>	<u>Municipal Fish Tax</u>	<u>Procedures &amp; Verification</u>
Aleutians East Borough	2% Sale Use Raw Fish	No Policy Established Yet
Bristol Bay Borough	3% Raw Fish	Monthly reports from processors. Use variety of means audits, local police, and ADF&G data.
Akutan	.5% Raw Fish	Quarterly report. Unable to verify.
Clark's Point	3% Raw Fish	
King Cove	2% Raw Fish	Quarterly report. Voluntary compliance with an onshore processor.
Sandpoint	2% Sales & Fish Use	
Unalaska	1% Raw Fish	Monthly report. By annual random audits.

Source: Telephone Interviews with Municipal Officer February 1988.

Appendix Table One. Borough and Community Fisheries Taxation in Addition to Alaska State Fisheries Business Tax

Communities and Boroughs w/Processors	# Processors in 1987	Received Fisheries Business Tax from State in 1986	Additional Municipal Sales Taxes on Raw Fish in 1988	Verification
<b>BOROUGHS</b>				
Anchorage Municipality	29	yes	no	
Juneau	30	yes	no	
Sitka	25	yes	no but possibility of fish tax this October	
Aleutians East		no	2% sales & use raw fish	
Bristol Bay	41	yes	3% raw fish	ADF&G, audits, late penalties and personal inspections.
North Star	2	yes	no	
Haines	11	yes	no	
Kenai Peninsula	24	yes	no unless sold directly to public then sales tax applies	
Ketchikan Gateway	9	yes	no	
Kodiak Island	10	yes	no	
Matanuska-Susitna	1	yes	no	
<b>COMMUNITIES</b>				
Akutan	6	yes	.5% raw fish	not able to verify quarterly reports
Aniak	1	yes	no	
Anvik	1	yes	no	
Bethel	6	yes	5%	
Chignik	4	yes	no	

Communities and Boroughs w/Processors	# Processors in 1987	Received Fisheries Business Tax from State in 1986	Additional Municipal Sales Taxes on Raw Fish in 1988	Verification
Clark's Point	2	yes	3% raw fish	
Cordova	18	yes	no	
Cordova	18	yes	specifically exempts fish taxes	
Craig	1	no	no but will if some kind of landing fee isn't imposed	
Dillingham	7	yes	no	
Emmonak	1	yes	considered it for future	
Fairbanks	1	yes	no	
Fortuna Ledge	1	yes	no	
Galena	2	yes	no	
Haines	11	yes	no	
Homer	8	yes	no	
Hoonah	3	yes	no	
Hydaburg	1	yes	no	
Kake	2	yes	no	
Kaltag	1	yes	no	
Kenai	11	yes	no	
Ketchikan	37	yes	no	
King Cove	2	yes	2% raw fish	voluntary compliance onshore no compliance offshore
Klawock	2	yes	no	
Kodiak	27	yes	no	

Table One continued.

Communities and Boroughs w/Processors	# Processors in 1987	Received Fisheries Business Tax from State in 1986	Additional Municipal Sales Taxes on Raw Fish in 1988	Verification
Mountain Village	2	yes	uk	
Pelican	3	yes	no	
Petersburg	19	yes	no	
Port Alexander	2	yes	no	
Port Heiden	2	yes	no	
Saint George	1	yes	no	
Saint Marys	2	yes	3%	
Sand Point	3	yes	2% sales and fish use	
Selawik	1	yes	3%	
Seldovia	1	yes	4%	
Seward	10	yes	3%	
So]dotna	2	yes	3%	
Tenakee Springs	2	yes	1%	
Togiak	3	no	2%	
Unalakleet	1	yes	no	
Unalaska	12	yes	1% raw fish	By random audit monthly reports
Valdez	11	yes	no	

Communities and Boroughs w/Processors	# Processors 1987	Received Fisheries Business Tax from State in 1986	Additional Municipal Sales Taxes on Raw Fish	Verification
Whittier	9	yes	no	
Wrangell	21	yes	no	
Yakutat	7	yes	no	

Sources: Telephone Interviews of Municipal Officials by Senate Advisory Council February 1988, Alaska  
Municipal Officials Directory, Alaska Department of Environmental Conservation Processors List

# ALEUTIANS EAST BOROUGH

SERVING THE COMMUNITIES OF

■ KING COVE ■ SAND POINT ■ AKUTAN ■ COLD BAY ■ FALSE PASS ■ NELSON LAGOON

February 29, 1988

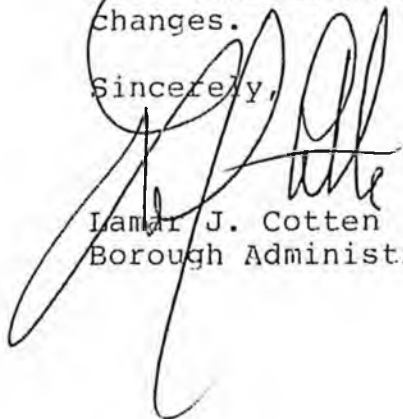
Senator Arliss Sturgulewski  
P.O. Box V  
Juneau, Alaska 99811

RE: SB-385 - Confidentiality Bill

Dear Senator Sturgulewski:

Just a short note to say that the Aleutians East Borough supports the Senate Bill 385. It will help close loop-holes in current State law while insuring a taxation policy which treats all entities equally. The bill is well overdue and will help alleviate a number of problems which communities will face in coming years as the fishing industry evolves and changes.

Sincerely,



Lamar J. Cotten  
Borough Administrator

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
TIM KELLY, Vice Chairman  
RICK HALFORD  
MIKE SZYMANSKI  
FRED ZHAROFF



February 11, 1988  
P. O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4989

## Senate Community and Regional Affairs Committee

### SCHEDULE

Tuesday, February 16, 1988

HB 93 - "An Act establishing six recreation rivers; and providing for an effective date."

HCR 33 - "Relating to annexations recommended by the Local Boundary Commission."

Executive Order 69 - Reassigning the functions of the division of housing assistance to the Department of Community and Regional Affairs.

Presentation by the Department of Community and Regional Affairs on its Regional Government Study.

Thursday, February 18, 1988

SB 303 - "An Act relating to additions to the Marine Park system."

SB 385 - "An Act relating to fisheries tax returns; and providing for an effective date."

*Exec. Order 69 - ~~Reassigning~~ Reassigning duties of Housing Assistance*  
All meetings in the Butrovich Room, 3:30pm - 5:00 pm

*DIVISION Jo  
DC + RA*

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 2/11/88 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: Resources  
Finance

\*\*FISCAL NOTE(S) ATTACHED yes \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

2/2/88  
Mr. President:

DATE TURNED INTO OFFICE

2/18/88

C&RA

Committee considered SB 385

fisheries tax returns; efd

and recommended:

[ ] replace with CS \_\_\_\_\_ [ ] same title  
[ ] attached amendment(s) and [ ] new title

do pass

[ ] do not pass

[ ] no recommendation

individual recommendations

[ ] further referral to \_\_\_\_\_

[ ] letter of intent adopted and attached

\*\* Committee  attached or [ ] adopted fiscal note(s)  
[ ] zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Fred T. Ziegler  
Mike Zyglidopoulos  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Arlen Sturgulinski Do Pass  
Chairman signature and recommendation

Committee Backup Attached

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
TIM KELLY, Vice Chairman  
RICK HALFORD  
MIKE SZYMANSKI  
FRED ZHAROFF



P. O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4989

## Senate Community and Regional Affairs Committee

February 17, 1983

TO: Senate Community and Regional Affairs Committee Members

FROM: Senate C&RA Staff *MEL*

RE: SB 385 "An Act relating to fisheries tax returns; and providing for an effective date."

SB 385 would allow the Department of Revenue to share confidential information regarding raw fish tax with municipalities under certain circumstances.

Senator Zharoff will be at the committee to explain the bill as will representatives of the Department of Revenue. The Department of Revenue supports the bill. A fiscal note and good analysis from the department is in the packet.

Also included in the packet is a memo and sectional analysis from Senator Zharoff, a letter and resolution in support from the Alaska Municipal League, a letter and resolution of support from the Southwest Alaska Municipal Conference, and a copy of the existing relevant statutes.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An Act relating to fisheries tax returns; and providing for an effective  
Sponsor: Zharoff, Binkley, Fischer, etal  
Requestor: C & RA, Resources and Finance

Agency Affected: Revenue  
BRU: Income and Excise Audit Division

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
<b>OPERATING</b>						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	.5	.5	.5	.5	.5
CONTRACTUAL	-	.5	.5	.5	.5	.5
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	1.0	1.0	1.0	1.0	1.0
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
GENERAL FUND	-	1.0	1.0	1.0	1.0	1.0
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<b>TOTAL</b>	-	-	-	-	-	-

POSITIONS:

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
FULL-TIME	-	0	0	0	0	0
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel, Director Phone: (907) 465-2320  
Division: Income and Excise Audit Division Date: February 3, 1988

Approved by Commissioner: [Signature] Date: 2/5/88  
Agency: \_\_\_\_\_

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

SB 385 Analysis

Prepared By: Steven E. Kettel  
Income and Excise Audit  
February 3, 1988

Travel

Regulation Hearing Travel to Anchorage	\$ .5
--	-------

Contractual

Regulation Advertising/Printing	\$ .2
Exchange of Information Forms	\$ .2
Postage	\$ .1

## ANALYSIS OF SB 385

Prepared By: Steven E. Kettel  
Income and Excise Audit Division  
February 3, 1988

Present Alaska law prohibits the Department from sharing confidential tax information with the general public, other state or local governmental agencies or the legislature.

Also, the statutes governing the fisheries business (raw fish) tax provides that the State will share up to 50% of that tax with the communities in which the fish are processed. To many communities, this is a significant source of revenues, and with the decline in municipal assistance funding programs, many city and borough managers are becoming increasingly interested in whether they are receiving their fair share of the fish tax.

Often times, these cities have information concerning the processors that enter their jurisdictions and process fish, and in some instances, they possess detailed information concerning the amount or value of fish processed. With this information in hand, these managers have desired to exchange this information with the Department to insure that the State's fish tax is being reported correctly and that their municipality is being properly credited for revenue sharing purposes. Prohibition against disclosure at the state level has frustrated city and state administrators alike in their efforts to collect all taxes due and properly share them among the effected communities.

SB 385 provides a mechanism for the Department of Revenue to share sufficient information with municipalities to allow for enhanced compliance with the new fish tax law at both the state and local level. The law applies to two classes of information and two classes of municipalities.

I. City/Boroughs which do not levy a tax on fish resources processed in their jurisdiction may request and receive from the Department only the names of the fisheries businesses which have reported fish processing activities for that city or borough on the State's fish tax returns. No financial information contained in the return will be disclosed.

II. City/Boroughs which levy a fish tax on the value of fish processed in their jurisdiction may request the Department to verify that values reported on their tax returns are substantially the same as values reported on the State's return. If the values are not the same, the Department will give the municipality a copy of the State tax return, provided the municipality safeguards the information and uses it only for tax collection purposes.



**SENATOR FRED F. ZHAROFF**  
**ALASKA STATE LEGISLATURE**

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

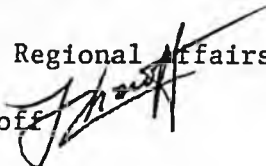
P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Arliss Sturgulewski  
Chair  
Senate Community and Regional Affairs Committee

FROM: Senator Fred F. Zharoff 

DATE: February 3, 1988

RE: Senate Bill 385 - "An Act relating to fisheries tax returns; and providing for an effective date."

I respectfully request that SB 385 be scheduled for consideration at the Senate Community and Regional Affairs Committee's earliest convenience.

SB 385 allows municipalities to have access to specific fisheries tax information -- now held confidential by the Department of Revenue -- so the municipalities can obtain the names of all the fisheries businesses that have filed returns for fish processed within their boundaries and verify that the municipalities received the correct amount from the collection of their own fish taxes.

SB 385 was introduced in response to local government complaints there was no way to independently check and confirm that the local governments have received all the fish tax funds they are entitled to receive. Under 43.75.130 (Refund to local governments), the state provides the municipalities with 50 percent of the state fish taxes collected from fish processed within municipal boundaries. The funds are distributed in lump sum payments. The municipalities, however, cannot find out which fisheries businesses this revenue came from and if it, in fact, includes every business that actually processed fish within its boundaries. This is particularly critical in the case of mobile floating processing vessels, which frequently move in and out of municipal boundaries.

In addition, SB 385 would allow municipalities and the state to check to see if they are both collecting taxes on the same number of pounds of fish.

The bill would be of benefit to the Department of Revenue, in that the municipalities would be in a position to assist the department in enforcing the fish tax statutes.

Background information for SB 385 is attached, as follows:

1. Sectional analysis.

2. Resolution of support from the Southwest Alaska Municipal Conference, passed March 1, 1987.
3. Letter from Mr. John Levy, executive director of the Southwest Alaska Municipal Conference, to my staff describing the problem (see page 2), dated April 13, 1987.
4. Resolution addressing the problem from the Alaska Municipal League, dated Nov. 13, 1987.
5. Fisheries Tax statutes.



# SENATOR FRED F. ZHAROFF

## ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

### DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

### SECTIONAL ANALYSIS

Senate Bill No. 385 -- "An Act relating to fisheries tax returns; and providing for an effective date."

#### SECTION 1

43.75 (Fisheries Taxes) is amended to add a new section.

43.75.133: PROVISION OF INFORMATION TO MUNICIPALITIES.

- (a) Allows the Department of Revenue, upon written request, to furnish a mayor, manager, or administrator with a list of all the fisheries businesses that have filed tax returns in which they listed the municipality as a location where they processed fish. This would allow a municipality to check its records against state records to determine if it collected taxes from all the processors that processed fish within its boundaries. This provision would be particularly helpful to municipalities in keeping track of mobile floating processors. In addition, municipalities would be able to inform the department about floating processors they know operated within their boundaries, but for which the department has no record.
- (b) Requires the department -- upon written request by the mayor, manager, or administrator of a municipality -- to verify from its records the amount of fisheries tax levied or collected by the municipality. If the amounts are not substantially the same, the mayor, manager, or administrator can inspect or obtain copies of the tax returns in question in order to use them for the purpose of tax collection only. The department does not need to provide this information unless it is satisfied the municipality provides adequate safeguards to protect the confidentiality of the tax returns. "Substantially the same" is defined as the amounts (values) being "equal or the variance between them does not exceed one percent of the greater value."

#### SECTION 2

APPLICABILITY.

43.75.133 only applies to fisheries business tax returns filed after December 31, 1986. This saves the Department of Revenue

the time and expense of researching requests for information from its old tax return files.

SECTION 3

Immediate effective date.


# Alaska MUNICIPAL League

TELEPHONE  
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301  
JUNEAU, ALASKA 99801

## MEMORANDUM

TO: Senator Arliss Sturgulewski, Chair  
Members of the Community and Regional Affairs Committee

FROM: Scott A. Burgess, Executive Director 

DATE: February 17, 1988

SUBJECT: SB 385 - Fisheries Tax Returns

The Alaska Municipal League strongly supports SB 385 - relating to fisheries tax returns - Subsection (a) permits municipalities to determine whether fisheries businesses operating within their boundaries are properly reporting the location of their activities. Inaccurate or improper reporting of location adversely affects the entitlement of an affected municipality to its share of the fisheries license tax.

Subsection (b) is extremely important to municipalities that levy sales and use taxes on the sale or use of fisheries products. It provides an enforcement mechanism that will provide enforcement information to both the state and the municipality without violating the purpose for which the confidentiality of these records was established. The practice of taxing jurisdictions of exchanging taxpayer information for enforcement purposes is well established and should be extended to this situation.

I have enclosed a related resolution adopted by the AML membership at our annual conference in November. The resolution supports the need to share fisheries tax information between the State and municipalities. It also request adequate funding for the Department of Fish and Game to properly collect, report, and manage fish ticket information.

The AML strongly supports SB 385.

Thank you.

SAB:ph1

Enclosure

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 88-8

A RESOLUTION CONCERNING RAW FISH TAX COLLECTIONS.

WHEREAS, the collection of raw fish tax is a critical source of revenue for the local municipalities and the State of Alaska, and

WHEREAS, the municipalities have been unable to obtain any data concerning collection of raw fish tax, and

WHEREAS, the municipalities would provide considerable information and assistance to the Department of Revenue if given the opportunity, and

WHEREAS, the municipalities have been effectively managing confidential information for many years, and

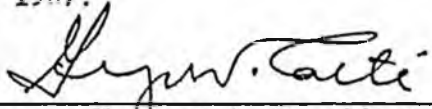
WHEREAS, the municipalities concur with the sensitivity of the processor information and agree to treat the information as confidential information, and

WHEREAS, the Department of Fish and Game fish tickets for bottomfish have not been processed for several months, which means no catch verification or fish tax verification is taking place at this time, and

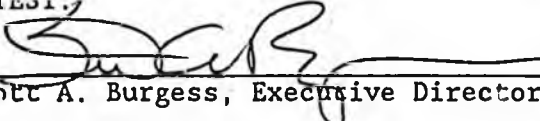
WHEREAS, this information is critical for both management of the fish resource and accurate management of the fish tax collections;

NOW, THEREFORE, BE IT RESOLVED by the Alaska Municipal League that Governor Cowper and the Alaska Legislature adopt legislation to fund adequate staff positions within the Department of Fish and Game to properly manage the information provided on the fish tickets for all species in a timely manner to allow verification and quality information to the municipalities and an accurate accounting for the raw fish tax.

Adopted this 13th day of November 1987.

  
George W. Carte, President

ATTEST:

  
Scott A. Burgess, Executive Director



**SOUTHWEST ALASKA  
MUNICIPAL CONFERENCE**

Box 89 • Unalaska • Alaska 99685

April 13, 1987

Carl Ohs  
c/o Senator Fred Zharoff  
Senate District N  
Pouch V  
Juneau, Ak. 99801

Dear Carl,

Thank you for meeting with Wayne, Lamar and I last week on issues of concern for the Southwest Municipal Conference. You asked that I send you a summary of the main points.

You will recall that our discussion focused on four themes.

1. Fish Tax
2. Confidentiality
3. Monitoring
4. Observer Program

Fish Tax

At the annual spring meeting in Dillingham, the Southwest Municipal Conference delegates resolved to work with legislators to develop a fish tax program that structurally benefits municipally-located processors regardless of fishery. Delegates cited the importance of shore-based and near shore-based plants for local economies. Specifically, delegates proposed the following tiered structure.

Onshore Processors .....	3%
Floating Processors Within Municipal Boundaries .....	5%
Processors Outside of Municipal Boundaries .....	8%

The Conference asks that this tax policy be managed to allow municipalities to retain the same percentage they presently receive in shared taxes for operations within municipal boundaries. The State will receive an increase in revenues from higher tax rates on processors operating outside municipal boundaries.

Our goal is to have legislation introduced this Session that addresses the above-listed structure. <sup>Legislative</sup>~~House~~ Research could analyze the legislation during the interim. Modified to reflect their recommendations we would work toward passing a bill next Session.

## Confidentiality

Many municipal officials complain about the veil of secrecy surrounding fish processing records. Lacking access to these records, municipalities cannot verify processors' production records. It would be in the State's interest to share these records with municipalities so that we can assist the State in its collection of unreported/underreported taxes. Local officials repeatedly testified to the discrepancies in collections within their jurisdictions.

Some argue that if municipalities had access to records it would jeopardize the competitive edge that some processors enjoy. As municipal officials we frequently handle issues sensitive in nature. Our public's trust hinges on ensuring the confidentiality of these issues and records. We do not foresee a danger to any firm's records being made public.

The Southwest Municipal Conference is requesting your assistance to:

1. Authorize the Department of Revenue to share information on fish tax collected per processor with municipalities.
2. Require the Department of Revenue to work cooperatively with municipalities in verification and collection of raw fish tax. The Conference supports giving the Department of Revenue the option to allow the municipality to assume collection duties within municipal boundaries. This option would include provisions for the municipality to retain a reasonable fee to cover costs.
3. Fund adequate Alaska Department of Fish and Game staff positions to analyze fish tickets in a timely manner for all species. This link in the system is essential to ensure accurate accounting of the raw fish tax.

## Monitoring

Southwestern communities fear that bottomfish resources could be devastated through lack of proper data analysis, monitoring and observation. Although many of the management aspects of this industry are federal, the State must work with the Federal government so that the future of pollock and cod is not negotiated for concessions in other international trading issues. We understand that millions of dollars may potentially go uncollected. This figure is the difference between what Fish and Game estimates is actually processed and what Revenue reports is collected.

## Observer Program

Southwest Conference delegates continue to support a required domestic observer program. Conference recommendations include:

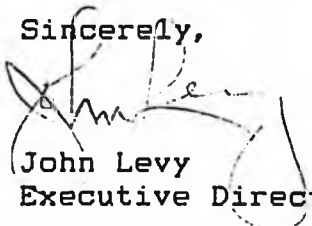
1. The State commit \$1.4 million in FY88 State share of Fish Business Tax receipts to fund the domestic observer program recommended by the Department of Fish and Game.

2. The State approach private and public bodies to assist in funding this program for the future. This includes supporting fishermen's efforts to form a non-profit-organization that can contribute funds for an observer program by using State taxing authority to collect assessments on fishermen.
3. The State contract with private groups, such as the Southwest Municipal Conference, to operate and manage the domestic observer program.
4. The State include The Southwest Municipal Conference on any advisory board that may be established to monitor the observer program.

You indicated that the Attorney General ruled that any observer program must hire state employees under A.P.E.A. We ask that Senator Zharoff work with the Governor and the Department of Law to come up with a legal, affordable program.

If you would like further information on the Southwest Municipal Conference or our position on various issues call President Paul Fuhs at 581-1357, I may be reached at 640 W. 36th Ave., #4, Anchorage 99503 or 562-1400.

Sincerely,



John Levy  
Executive Director

cc: Southwest Municipal Conference Executive Officers  
Rep. Cliff Davidson  
Rep. Adelheid Herrmann



**SOUTHWEST ALASKA  
MUNICIPAL CONFERENCE**

Box 89 • Unalaska • Alaska 99685

RESOLUTION 87-06

A RESOLUTION OF THE SOUTHWEST ALASKA MUNICIPAL CONFERENCE  
CONCERNING RAW FISH TAX COLLECTIONS.

WHEREAS, the collection of raw fish tax is a critical source of revenue for the local municipalities and the State of Alaska, and

WHEREAS, the municipalities have been unable to obtain any data concerning collection of raw fish tax, and

WHEREAS, the municipalities would provide considerable information and assistance to the Department of Revenue if given the opportunity, and

WHEREAS, the municipalities have been effectively managing confidential information for many years, and

WHEREAS, the municipalities concur with the sensitivity of the processor information and agree to treat the information as confidential information, and

WHEREAS, the Department of Fish and Game fish tickets for bottomfish have not been processed for several months which means no catch verification or fish tax verification is taking place at this time, and

WHEREAS, this information is critical for both management of the fish resource and accurate management of the fish tax collections, now

THEREFORE, BE IT RESOLVED by the Southwest Alaska Municipal Conference that Governor Cowper and the Alaska Legislature adopt legislation to:

1. Authorize the Department of Revenue to share the confidential information of fish tax collected per processor to be treated as confidential information exempt from public disclosure by the local municipalities.

Southwest Alaska Municipal Conference  
Resolution 87-06  
Page two

2. Require the Department of Revenue to work cooperatively with local municipalities in verification and collection of raw fish tax including the option for a local municipality to assume the collection duties within their municipal boundaries and retain a reasonable administrative fee to cover the cost of collection.
3. Fund adequate staff positions within the Department of Fish and Game to properly manage the information provided on the fish tickets for all species in a timely manner to allow verification and quality information to the municipalities and an accurate accounting for the raw fish tax.

APPROVED AND ADOPTED this 1st day of March,  
1987.

  
-----  
Paul Fuhs, President

Effect of amendment. — The 1987 amendment, effective May 30, 1987, repealed paragraphs (2) and (3), which de-

finied "gross receipts" and "income year." For the text of the subsections, see the main pamphlet.

## NOTES TO DECISIONS

- I. General Consideration.
- II. Business.
- III. Gross Receipts.
- IV. Person.

### I. GENERAL CONSIDERATION.

No exemption for domestic international sales corporations. — While AS 43.20.036(c) of the Alaska Net Income Tax Act expressly permits taxpayers to apply their federal domestic international sales corporation exemption in calculating the income tax payable under AS 43.20, there is no similar provision carrying the exemption over to taxes under this chapter. State, Dep't of Revenue v. Alaska Pulp Am., Inc., Sup. Ct. Op. No. 2735 (File Nos. 6583, 6594), 674 P.2d 268 (1983).

This chapter, as opposed to the Alaska Net Income Tax Act, AS 43.20, contains no provision giving special tax treatment to domestic international sales corporations, and the court will not create one. State, Dep't of Revenue v. Alaska Pulp Am., Inc., Sup. Ct. Op. No. 2735 (File Nos. 6583, 6594), 674 P.2d 268 (1983).

### II. BUSINESS.

Gain, profit or benefit. — "Business" is more broadly defined in paragraph (1) of this section than merely "for-profit" activity; the definition also includes all activities undertaken for financial gain or benefit, even where the possibility of actual profits is foreclosed. Williams v. BP Alaska Exploration, Inc., Sup. Ct. Op. No. 2767 (File No. 7035), 677 P.2d 236 (1983). Efficiency of operation and promotion of goodwill provide adequate benefit to the taxpayers so that the underlying activity can be found to be a business activity. Williams v. BP Alaska Exploration, Inc., Sup. Ct. Op. No. 2767 (File No. 7035), 677 P.2d 236 (1983).

Bookkeeping, banking, receiving commissions and declaring dividends constitute corporate "business" within the state. State, Dep't of Revenue v. Alaska Pulp Am., Inc., Sup. Ct. Op. No. 2735 (File Nos. 6583, 6594), 674 P.2d 268 (1983).

Operators of oil, gas, and mineral leases reimbursed for operating costs by nonoperating cointerest holders were en-

gaged in business, as the term is defined in paragraph (1) of this section. Williams v. BP Alaska Exploration, Inc., Sup. Ct. Op. No. 2767 (File No. 7035), 677 P.2d 236 (1983).

Subsidiary engaged in business. — Where a group of parent corporations created a close corporation that operated at cost as the venture manager for the construction and operation of the Trans-Alaska Pipeline System, the subsidiary's receipts were taxable under this chapter, even though the subsidiary itself made no profit. Alyeska Pipeline Serv. Co. v. Williams, Sup. Ct. Op. No. 2861 (File No. 7890), 687 P.2d 323 (1984).

### III. GROSS RECEIPTS.

Editor's notes. — The cases annotated below were decided before the 1987 repeal of AS 43.70.110(2), which defined "gross receipts."

Gross receipts. — See also notes under catchline "Percentage of gross receipts tax," Notes to Decisions, AS 43.70.030.

Reimbursements to subsidiary for construction expenses. — Reimbursement to a subsidiary operating as venture manager in the construction of the Trans-Alaska Pipeline System for out-of-state expenses incurred as part of the pipeline project falls within the definition of "gross receipts," and neither the commerce clause nor the due process clause of the federal constitution prevent the state from taxing the subsidiary's gross receipts. Alyeska Pipeline Serv. Co. v. Williams, Sup. Ct. Op. No. 2861 (File No. 7890), 687 P.2d 323 (1984).

Where a subsidiary owned by a consortium of oil companies that operated as venture manager of the Trans-Alaska Pipeline System was reimbursed by the parent corporations for expenses incurred in construction of the pipeline system, the reimbursements were gross receipts under paragraph (2); the subsidiary was distinct from the parent corporations and was not a mere conduit. Alyeska Pipeline Serv.

(File No. 7890), 687 P.2d 323 (1984).

Reimbursements under lease operating agreements. — Reimbursements to operators of oil, gas and mineral leases by nonoperating cointerest holders for costs incurred in managing, exploring and developing the leases were "gross receipts," taxable under former AS 43.70.030(a). Williams v. BP Alaska Exploration, Inc., Sup. Ct. Op. No. 2767 (File No. 7035), 677 P.2d 236 (1983).

Although certain reimbursable expenditures took place out of Alaska, reimbursements to operators of oil, gas and mineral leases for these expenditures were properly included in calculating gross receipts under paragraph (2) of this section since the license tax was levied against money received from nonoperators in Alaska under Alaska operating agreements. Williams v. BP Alaska Exploration, Inc., Sup. Ct. Op. No. 2767 (File No. 7035), 677 P.2d 236 (1983).

Revenues received by a broadcasting company for the in-state activity of broadcasting network television programs were taxable under former percentage-of-gross-receipts tax as "gross receipts" from sources in the state. State, Dep't of Revenue v. Northern TV, Inc., Sup. Ct. Op. No. 2723 (File Nos. 7037, 7064), 670 P.2d 367 (1983).

The sale of "air time" — the broadcasting of network television programs in Alaska for compensation — constituted a sale of "goods" within the meaning of this section, and any compensation received constituted "gross receipts" subject to taxation. State, Dep't of Revenue v. Northern TV, Inc., Sup. Ct. Op. No. 2723 (File Nos. 7037, 7064), 670 P.2d 367 (1983).

Dividends and commissions are included in "gross receipts." State Dep't of Revenue v. Alaska Pulp Am., Inc., Sup.

674 P.2d 268 (1983).

Money received from the sale of construction equipment should be included in "gross receipts" where the taxpayer is engaged in the "business" of construction; the construction equipment sold was used in connection with that business; a contract provision requiring the taxpayer to sell all of its tools, equipment and property upon completion of its work indicates that the sale of this equipment was contemplated as part of the taxpayer's normal business; and the sale of construction equipment at the end of the equipment's useful life is the normal practice of the taxpayer. Green Constr. Co. v. State, Dep't of Revenue, Sup. Ct. Op. No. 2737 (File No. 7022), 674 P.2d 260 (1983).

Agents. — The exemption provided for "agents" in paragraph (2) of this section is intended to apply to persons working on commissions as sales agents for companies that are engaged in the retail sale of business and pay taxes under this chapter on the volume of business done. Green Constr. Co. v. State, Dep't of Revenue, Sup. Ct. Op. No. 2737 (File No. 7022), 674 P.2d 260 (1983).

There is no indication that the exemption for agents is intended to apply to contractors working on the standard "cost-plus fixed fee" construction contract. Green Constr. Co. v. State, Dep't of Revenue, Sup. Ct. Op. No. 2737 (File No. 7022), 674 P.2d 260 (1983).

### IV. PERSON.

Affiliated corporation, even if commonly owned and managed, are separately taxable under this chapter. State, Dep't of Revenue v. Alaska Pulp Am., Inc., Sup. Ct. Op. No. 2735 (File Nos. 6583, 6594), 674 P.2d 268 (1983).

## Chapter 75. Fisheries Taxes.

### Article

1. Taxes and Licenses (§§ 43.75.016, 43.75.018, 43.75.032, 43.75.034)
3. General Provisions (§§ 43.75.130, 43.75.140)

### Article 1. Taxes and Licenses.

#### Section

17. Fisheries business tax
18. Fisheries business education credit

#### Section

32. Fisheries business tax credits
34. Tax credit report

**Sec. 43.75.015. Fisheries business tax.** (a) A person engaged in a fisheries business is liable for and shall pay the tax levied by this section on the value of each of the following fisheries resources processed during the year at the rate set out after each:

- (1) salmon canned at a shore-based fisheries business — four and one-half percent;
- (2) salmon processed by a shore-based fisheries business, except salmon for which the tax is due under (1) of this subsection, and all other fisheries resources processed by a shore-based fisheries business — three percent;
- (3) fisheries resources processed by a floating fisheries business — five percent.

(b) Instead of the taxes levied by (a) of this section, a person who processes a developing commercial fish species is liable for and shall pay a tax equal to

- (1) one percent of the value of the developing commercial fish species processed by a shore-based fisheries business during the year; and
- (2) three percent of the value of the developing commercial fish species processed by a floating fisheries business during the year.

(c) A person engaging or attempting to engage in a fisheries business who first actually and physically processes the fishery resource, or a person who purchases a fishery resource that is frozen from a person excluded by AS 43.75.017 from liability for the tax, is liable for and shall pay to the department the entire tax imposed by this section. In determining this tax liability, the person may deduct from the value of the fishery resources processed the value of fishery resources that are canned or processed for other fisheries businesses. A person taking the deduction authorized by this subsection shall report all information relating to the deduction in accordance with regulations issued by the department. (§ 3 ch 79 SLA 1979; am §§ 5, 6 ch 117 SLA 1981; am § 1 ch 79 SLA 1986)

**Effect of amendments.** — The 1986 amendment substituted "fisheries business" for "cannery" in paragraph (1) of subsection (a).

**Sec. 43.75.018. Fisheries business education credit.** (a) A person engaged in a fisheries business is allowed as a credit against the tax due under this chapter 50 percent of cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, by an accredited, nonprofit, public or private, Alaska, two- or four-year, college or university. The credit may not exceed the lesser of 10 percent of the amount of tax due under this chapter or \$100,000. A contribution claimed as a credit under this section may not be claimed as a credit under another provision of this title.

(b) Contributions accepted for endowment purposes are not eligible for the credit under (a) of this section.

(c) By September 30 of each year, the Department of Revenue shall report to the Legislative Budget and Audit Committee on the credits taken under this section. Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used. (§ 7 ch 58 SLA 1987)

**Cross references.** — For statement of legislative purpose in connection with the enactment of this section, see § 1, ch. 58, SLA 1987 of the Temporary and Special Acts.

**Sec. 43.75.032. Fisheries business tax credits [Effective until January 1, 1992].** (a) A fisheries business is entitled to a credit of not more than 50 percent of the business tax liability under AS 43.75.015 for capital expenditures made during the tax year that (1) increase product diversity, or production efficiency and capacity, or improve product quality, at a shore-based fisheries business facility in the state, or (2) contribute to the development of a cooperative seafood industrial park in the state, if an application for the credit is approved by the department in advance of the capital expenditure. A fisheries business may claim a credit under this subsection for a maximum period of three consecutive years. An applicant for the credit may elect to begin the three-year period with any tax year from 1987 through 1989. A tax credit under this subsection may not be approved for more than 50 percent of a capital expenditure, plus any increase required under (b) of this section.

(b) The amount of a credit under (a) of this section for a capital expenditure involving a shore-based fisheries business facility or cooperative seafood industrial park located or to be located in a municipality shall be increased by the amount by which the municipality's fisheries business tax refund is reduced under AS 43.75.130(c). The total amount of a credit increase under this subsection during a three-year period may not exceed 25 percent of the amount of the capital expenditure.

(c) The portion of a capital expenditure that is eligible for a credit under this section but is claimed during a single tax year may not be carried back to a prior tax year but is available for the computation as a credit under this section for a subsequent tax year within the three-year period elected under (a) of this section.

(d) Within 10 days after submitting an application for a credit under (a) of this section the applicant shall send a copy of the application to the municipality, if any, in which the shore-based fisheries business facility or cooperative seafood industrial park for which the expenditure is to be made is located or is to be located.

(e) A fisheries business is entitled to a credit of not more than five percent of the business tax liability under AS 43.75.015 for contribu-

tions made during the tax year to the A. W. "Winn" Brindle memorial scholarship account (AS 14.43.250). A fisheries business may claim a credit under this subsection for the 1987 tax year and subsequent tax years. A tax credit under this subsection may not be approved for more than 100 percent of a scholarship contribution.

(f) The total tax credits that may be claimed under this section for a tax year for capital expenditures and scholarship contributions combined may not exceed 50 percent of the taxpayer's business tax liability under AS 43.75.015 for that tax year.

(g) The department may not approve a tax credit under this section if

(1) the property for which the capital expenditure was made was the subject of a previous capital expenditure by another taxpayer for whom a corresponding tax credit under this section has been approved;

(2) the property for which the capital expenditure was made was sold or transferred between fisheries businesses having substantial common ownership; or

(3) the fisheries business claiming the credit is in arrears in the payment of a fisheries business tax under AS 43.75.015; for purposes of this paragraph, a taxpayer is not in arrears if the payment is under administrative or judicial appeal.

(h) The department shall prepare an application form for a credit under this section.

(i) The department shall approve or disapprove an application for a credit under this section not later than 60 days after receiving the application.

(j) In this section

- (1) "cooperative" has the meaning given in AS 10.15.595.
- (2) "seafood industrial park" means a seafood processing center with facilities to land, handle, and process or to ship or transship to any location all marketable species of seafood; a seafood industrial park may contain commercial facilities to support the activities of the park, and the labor force and vessels that operate at or from the park. (§ 2 ch 79 SLA 1986)

Editor's notes. — Effective January 1, 1992, this section will read: "Sec. 43.75.032. Tax credit for scholarship contributions. (a) A fisheries business is entitled to a credit of not more than five percent of the business tax liability under AS 47.75.015 for contributions made during the tax year to the A. W. "Winn" Brindle memorial scholarship account (AS 14.43.250). A tax credit under this section may not be approved for more than 100 percent of a scholarship contribution.

"(b) The department may not approve a

tax credit under this section if the fisheries business claiming the credit is in arrears in the payment of a fisheries business tax under AS 43.75.015; for purposes of this subsection, a taxpayer is not in arrears if the payment is under administrative or judicial appeal.

"(c) The department shall prepare an application form for a credit under this section.

"(d) The department shall approve or disapprove an application for a credit un-

der this section not later than 60 days after receiving the application."

Sec. 43.75.034. Tax credit report [Repealed effective February 15, 1992]. Not later than the 15th legislative day of each regular legislative session the Department of Revenue, in conjunction with the Department of Commerce and Economic Development, shall submit to the legislature a report on the fisheries business tax credit program under AS 43.75.032. The report shall describe the expenditures for which a credit was approved during the previous tax year and, if possible, the increase in employment and processing capacity by the fisheries businesses for which the credit was approved. (§ 2 ch 79 SLA 1986; r § 8 ch 79 SLA 1986)

Postponed repeal. — Section 8, ch. 79, SLA 1986 repeals this section, effective February 15, 1992.

Article 3. General Provisions.

- Section
- 130. Refund to local governments
- 140. Definitions

Sec. 43.75.130. Refund to local governments. (a) Except as provided in (d) of this section, the commissioner of revenue shall pay

(1) to each unified municipality and to each city located in the unorganized borough, 50 percent of the amount of tax revenue collected in the municipality from taxes levied under this chapter;

(2) to each city located within a borough, 25 percent of the amount of tax revenue collected in the city from taxes levied under this chapter; and

(3) to each borough  
(A) 50 percent of the amount of tax revenue collected in the area of the borough outside cities from taxes levied under this chapter; and  
(B) 25 percent of the amount of tax revenue collected in cities located within the borough from taxes levied under this chapter.

(b) For purposes of this section, tax revenue collected under AS 43.75.015 from a person entitled to a credit under AS 43.75.032 shall be calculated as if the person's tax had been collected without applying the credit.

(c) [Repealed effective January 1, 1992] Within 60 days after a credit is approved under AS 43.75.032 for a capital expenditure involving a shore-based fisheries business facility or cooperative seafood industrial park located or to be located in a municipality, the municipality may adopt an ordinance directing the department to reduce the municipality's refund under this section over a period of not more

than three years by an amount not exceeding 25 percent of the capital expenditure.

(d) Notwithstanding the provisions of (a)(2) and (a)(3)(B) of this section, the commissioner shall pay

(1) to each city that is located in a borough incorporated after June 16, 1987 the following percentages of the tax revenue collected in the city from taxes levied under this chapter:

(A) 45 percent of the taxes collected during the calendar year in which the borough is incorporated;

(B) 40 percent of the taxes collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 35 percent of the taxes collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 30 percent of the taxes collected during the third calendar year after the calendar year in which the borough is incorporated; and

(2) to each borough that is incorporated after June 16, 1987 the following percentages of the tax revenue collected in the cities located within the borough from taxes levied under this chapter:

(A) 5 percent of the taxes collected during the calendar year in which the borough is incorporated;

(B) 10 percent of the taxes collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 15 percent of the taxes collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 20 percent of the taxes collected during the third calendar year after the calendar year in which the borough is incorporated.

(e) Notwithstanding the provisions of (d) of this section, a city may adopt an ordinance to transfer a portion of the funds received under (d)(1) of this section to the borough in which the city is located.

(f) In this section, "tax revenue collected" includes the amount credited against taxes under AS 43.75.018. (§ 6 ch 155 SLA 1962; am § 75 ch 69 SLA 1970; am § 10 ch 218 SLA 1976; am § 11 ch 79 SLA 1979; am § 10 ch 117 SLA 1981; am § 73 ch 74 SLA 1985; am §§ 4, 7 ch 79 SLA 1986; am § 8 ch 58 SLA 1987; am §§ 1, 2 ch 80 SLA 1987)

Postponed repeal. — Section 7, ch. 79, SLA 1986 repeals subsection (c), effective January 1, 1992.

Revisor's notes. — Subsection (f) enacted as (d). Renumbered in 1987.

Effect of amendments. — The 1985 amendment in paragraph (1) substituted "unified Municipality" for "municipality unified under AS 29.68.240 — 29.68.440."

The 1986 amendment added subsections (b) and (c).

The first 1987 amendment added subsection (f).

The second 1987 amendment, effective June 16, 1987, in subsection (a) substituted "Except as provided in (d) of this section, the" for "The" at the beginning of the section and substituted "under" for "by" throughout the subsection and added subsections (d) and (e).

Sec. 43.75.140. Definitions. In this chapter

(1) [Repealed effective January 1, 1992] "capital expenditures" includes the price paid for equipment and the cost of improvements made to depreciable property, but does not include expenditures that are deducted entirely for federal income tax purposes in the year in which they accrued or were paid; in this paragraph, "equipment" and "depreciable property" have the meaning given in regulations adopted by the commissioner of commerce and economic development;

(2) "department" means the Department of Revenue;

(3) "developing commercial fish species" means those species of fish and shellfish annually designated by the commissioner of fish and game under AS 16.05.050(11);

(4) "fisheries business" means a person who engages in processing fisheries resources for sale by freezing, cooking, salting, or other method and includes but is not limited to canneries, cold storages, freezer ships, and processing plants;

(5) "fishery resource" means fin fish, shellfish and fish by-products, including but not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, and pollock;

(6) "floating fisheries business" means a fisheries business which is not a shore-based fisheries business; the term includes, but is not limited to, a shore-based fisheries business as defined in (9)(B) of this section when it is removed from the state;

(7) [Repealed effective January 1, 1992] "product diversity" means the processing of nontraditional fish or other seafood species or products;

(8) [Repealed effective January 1, 1992] "product quality" means the handling of fish or other seafood species or products in order to increase product sales or value.

(9) "shore-based fisheries business" means a fisheries business

(A) operated from a facility which is permanently attached to the land; or

(B) operated from a facility which remains in the same location in the state for the entire tax year;

(10) "taking" means pursuing, fishing, capturing, or harvesting a fisheries resource in any manner;

(11) "value" means the actual price paid for the fisheries resource by the fisheries business, including indirect consideration such as fuel, supplies, or gear, whether paid at the time of purchase of the fisheries resource or tendered as a deferred or delayed payment, except that "value" means the market value of the fishery resource if the taking of the fishery resource is done in company-owned or company-subsidized boats operated by employees of the fisheries business or in boats which are operated under lease or other arrangement. (§ 3 ch 79 SLA 1979; am § 46 ch 94 SLA 1980; am § 46 ch 113 SLA 1980; am §§ 11, 12 ch 117 SLA 1981; am §§ 5, 7 ch 79 SLA 1986)

Postponed repeal. — Section 7, ch. 79, SLA 1986 repeals paragraphs (1), (7) and (8), effective January 1, 1992.

Revisor's notes. — Reorganized in 1986 to alphabetize the defined terms.

Effect of amendments. — The 1986 amendment added paragraphs (1), (7) and (8).

**Chapter 76. Salmon Enhancement Act.**

<p><b>Section</b> 10. Three percent salmon enhancement tax 11. Two percent salmon enhancement tax</p>	<p><b>Section</b> 25. Collection of tax and disposition of proceeds</p>
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**Sec. 43.76.010. Three percent salmon enhancement tax.** (a) A person holding a limited entry permit under AS 16.43 shall pay a salmon enhancement tax at the rate of three percent of the value of salmon, as defined in AS 43.75.140, that the person removes from the state or transfers to a buyer in the state. The buyer shall collect the salmon enhancement tax at the time the salmon is acquired by the buyer.

(b) A three percent salmon enhancement tax may only be levied or collected under (a) of this section

(1) in a region designated by the commissioner of fish and game for the purpose of salmon production under AS 16.10.375;

(2) if there exists in that region an association determined by the commissioner of fish and game to be a qualified regional association under AS 16.10.380; and

(3) if the qualified regional association approves the three percent salmon enhancement tax under AS 43.76.015. (§ 2 ch 154 SLA 1980; am § 13 ch 117 SLA 1981)

Editor's notes. — This section is set out above to reflect a change in the internal reference because of section reorganization.

**Sec. 43.76.011. Two percent salmon enhancement tax.** (a) A person holding a limited entry permit under AS 16.43 shall pay a salmon enhancement tax at the rate of two percent of the value of salmon, as defined in AS 43.75.140, that the person removes from the state or transfers to a buyer in the state. The buyer shall collect the salmon enhancement tax at the time the salmon is acquired by the buyer.

(b) A two percent salmon enhancement tax may only be levied or collected under (a) of this section

(1) in a region designated by the commissioner of fish and game for the purpose of salmon production under AS 16.10.375;

(2) if there exists in that region an association determined by the commissioner of fish and game to be a qualified regional association under AS 16.10.380; and

(3) if the qualified regional association approves the two percent salmon enhancement tax under AS 43.76.015. (§ 2 ch 154 SLA 1980; am § 14 ch 117 SLA 1981)

Editor's notes. — This section is set out above to reflect a change in the internal reference because of section reorganization.

**Sec. 43.76.025. Collection of tax and disposition of proceeds.**

(a) A buyer who acquires fisheries resources which are subject to the salmon enhancement tax imposed by AS 43.76.010 or 43.76.011 shall collect the salmon enhancement tax at the time of purchase, and shall remit the total salmon enhancement tax collected during each month to the Department of Revenue by the last day of the next month.

(b) A buyer who collects the salmon enhancement tax shall

(1) maintain records reflecting the region designated under AS 16.10.375 in which the fishery resource was caught; and

(2) report to the Department of Revenue by March 1 of each year the total value, as defined in AS 43.75.140, of the salmon caught in each region designated under AS 16.10.375 which the buyer has acquired during the preceding year.

(c) The salmon enhancement tax collected under AS 43.76.010 — 43.76.030 shall be deposited in the general fund. The legislature may make appropriations based on this revenue to the Department of Commerce and Economic Development for the purpose of providing financing for qualified regional associations. The legislature may base an appropriation for a qualified regional association operating within a region designated under AS 16.10.375 on the value of the fisheries resources caught in that region rather than the value of the fisheries resources sold in that region if those values differ. (§ 2 ch 154 SLA 1980; am §§ 16, 17 ch 117 SLA 1981)

Editor's notes. — This section is set out above to reflect a change in the internal reference because of section reorganization.

**Sec. 43.76.030. Accounting of financing received as a result of the salmon enhancement tax.**

Revisor's notes. — Enacted as AS 16.10.385. Renumbered in 1980.

(4) "Person" includes an individual, firm, partnership, joint adventure, association, corporation, estate trust, business trust, receiver, or any group or combination acting as a unit. (§ 2 ch 43 SLA 1949; am § 1 ch 172 SLA 1957)

**Opinions of attorney general.** — Although the Pribilof Islands constitute a special reservation, within the meaning of the Buck Act, 4 USC 105-110, the operations of businesses, including performing contractors' work for the federal government, are not exempt from state taxation. 1959 Op. Att'y Gen., No. 22.

Mere contracts between private persons or corporations and the United States do not necessarily render the former essential governmental agencies and confer upon them freedom from state taxation. 1959 Op. Att'y Gen., No. 22.

The principle of immunity from state and local taxation is generally based upon the direct ownership or use and control of the property by the United States, and does not extend to the business, property, or income of contractors who are doing work for the federal government for the purpose of gain. 1959 Op. Att'y Gen., No. 22.

Persons receiving in excess of \$1500 gross per year from the supplying of part of their home to others and who claim business deductions on their Alaska income tax return for that same part of their home are required to obtain an Alaska business license. 1960 Op. Att'y Gen., No. 20.

When an individual claims that part of his property is business property for income tax purposes, that same part of his property does not come within the meaning of the words "personal home" in §§ 1 and 15 of the business license regulations. 1960 Op. Att'y Gen., No. 20.

**NOTES TO DECISIONS**

**Intent to tax all business proportionately.** — It is apparent that the legislature intended to discard license taxes on specifically enumerated businesses and to tax all businesses proportionately. Territory of Alaska v. Journal Printing Co., 15 Alaska 676, 135 F. Supp. 169 (D. Alaska 1955).

Newspapers are within purview of chapter. — The inclusion of newspapers, along with other businesses, is within the purview of this chapter. Territory of Alaska v. Journal Printing Co., 15 Alaska 676, 135 F. Supp. 169 (D. Alaska 1955).

An individual may not claim a reduction of state income tax on the grounds that part of his home is business property and then escape the state business license tax on the basis that the same part of his home is not a business property but his personal home. 1960 Op. Att'y Gen., No. 20.

Rents received by religious corporations are not exempted from the Alaska business license tax. 1960 Op. Att'y Gen., No. 25.

Where most of the business activities of a company took place in Missouri, it being very difficult to directly allocate that portion of the company's profits or income which was derived from its Alaska operations, the company carried on enough activities in Alaska to become subject to state taxation and these activities could be taxed on an indirect allocation formula. 1959 Op. Att'y Gen., No. 22.

The definition of "gross receipts" in this section indicates a clear legislative intent that, for the purposes of the act, gross receipts should include all of the taxpayer's receipts within the state, whether in the form of money or other valuable considerations. 1961 Op. Att'y Gen., No. 8.

Oil companies may not deduct from their gross receipts federal or Alaska motor fuel excise taxes paid or collected on oil products sold for purposes of calculating taxable gross receipts under the Alaska Business License Act. 1961 Op. Att'y Gen., No. 8.

Newspapers and the business of newspaper publishing are not made exempt from the ordinary forms of taxation for the support of local government by the provisions of the 1st and 14th amendments to the United States Constitution. Territory of Alaska v. Journal Printing Co., 15 Alaska 676, 135 F. Supp. 169 (D. Alaska 1955).

Definitions found in AS 21 are not controlling as to paragraph (1) of this section, because of the different purposes of each. Northern Adjusters, Inc. v. Department of Revenue. Sup. Ct. Op. No. 2332

(File No. 5128), 627 P.2d 205 (1981).

The purpose of excluding "insurance businesses" from the coverage of AS 43.70.030(a) by virtue of the definition in paragraph (1) is apparently to avoid taxing these businesses twice, since insurers are subject to a premiums tax imposed by AS 21.09.210. Northern Adjusters, Inc. v. Department of Revenue. Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).

The term "insurance businesses" does not include adjusters. Northern

Adjusters, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).

Because adjusters are not "insurers" subject to the premiums tax, they should not be viewed as "insurance businesses" exempt from the general license tax. Northern Adjusters, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).

Applied in Ketchikan Spruce Mills v. Dewey. 17 Alaska 336 (1957).

**Sec. 43.70.120. Short title.** This chapter may be cited as the Alaska Business License Act. (§ 1 ch 43 SLA 1949)

**Chapter 75. Fisheries Taxes.**

**Article**

1. Taxes and Licenses (§§ 43.75.010 — 43.75.055)
2. Taking of Fisheries Products Which Are Sold Outside Taxing Jurisdiction (§§ 43.75.100 — 43.75.120)
3. General Provisions (§§ 43.75.130 — 43.75.140)

**Opinions of attorney general.** — A native business enterprise incorporated under the Indian Reorganization Act of 1934, 48 Stat. 987, 25 U.S.C.A. § 476 et seq., whether it be a cooperative store or a cannery, doing business outside of an Indian reservation is subject to the Alaska Business License Act, AS 43.70, and this

chapter, even though those businesses may be operated by Alaska Natives who have incorporated under the Indian Reorganization Act of 1934. Conversely, such native business enterprises doing business within a reservation are not subject to these state taxes. 1978 Op. Att'y Gen., No. 16.

**NOTES TO DECISIONS**

Cited in Northern Adjusters, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).

**Article 1. Taxes and Licenses.**

**Section**

11. Fisheries business license
15. Fisheries business tax
17. Exclusion from fisheries business tax

**Section**

20. Application for license
30. Filing return and payment of tax
55. Security for collection of taxes