

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6382 SENATE LABOR & COMMERCE

786



RECORDS CERTIFICATION

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

Jan. Butler

Signature of Camera Operator

11/3/93

Date

1989-1990
SENATE LABOR AND COMMERCE COMMITTEE
LIST OF FILES (PAGE 1)

MICROFICHE #

EXECUTIVE ORDER 77

SB 25

SB 39

SB 40

SB 45

SB 51

SB 56

SB 58

SB 61

SB 72

SB 82

SB 88

SB 92

SB 93

SB 99

SB 109

SB 112

SB 120

SB 126 (FILE 1)

SB 126 (FILE 2)

SB 130

SB 134

SB 135

SLC16

1989-1990
SENATE LABOR AND COMMERCE COMMITTEE
LIST OF FILES (PAGE 2)

MICROFICHE #

SB 149
SB 151
SB 152
SB 154
SB 156
SB 162
SB 174
SB 177
SB 190
SB 191
SB 204
SB 212
SB 220
SB 238
SB 249
SB 259
SB 268
SB 270
SB 273
SB 274
SB 288
SB 296
SB 297
SB 298
SB 304

1989-1990
SENATE LABOR AND COMMERCE COMMITTEE
LIST OF FILES (PAGE 3)

MICROFICHE #

SB 307
SB 308
SB 309
SB 315
SB 316
SB 322
SB 335
SB 349
SB 353
SB 357
SB 375
SB 376
SB 393
SB 401
SB 411
SB 419
SB 425
SB 429
SB 440
SB 449
SB 451
SB 455
SB 470
SB 478
SB 492

1989-1990
SENATE LABOR AND COMMERCE COMMITTEE
LIST OF FILES (PAGE 4)

MICROFICHE #

SB 496

SB 501

SB 506

SB 507

SB 508

SB 514

SB 520

SB 525

SB 526

SB 527

SB 529

SB 531

SB 533

SB 536

SB 542

SB 543

SB 551

SCR 12

SCR 21

SCR 27

SCR 29

SCR 53

SJR 8

SJR 41

SJR 47

1989-1990
SENATE LABOR AND COMMERCE COMMITTEE
LIST OF FILES (PAGE 5)

MICROFICHE #

SJR 72

SJR 76

SR 6

SR 11

SR 17

HB 5

HB 10

HB 13

HB 21

HB 25

HB 29

HB 44 (FILE 1)

HB 44 (FILE 2)

HB 48

HB 61

HB 70

HB 71

HB 72

HB 75

HB 8?

HB 86

HB 96

HB 106

HB 123

HB 144

1989-1990
SENATE LABOR AND COMMERCE COMMITTEE
LIST OF FILES (PAGE 6)

MICROFICHE #

HB 147
HB 157
HB 168
HB 169
HB 182
HB 222
HB 225
HB 235
HB 261
HB 284
HB 300
HB 355
HB 404
HB 406
HB 429
HB 432
HB 442
HB 466
HB 499
HB 523
HB 532
HB 557
HB 587

1989-1990
SENATE LABOR AND COMMERCE COMMITTEE
LIST OF FILES (PAGE 7)

MICROFICHE #

HJR 37

HJR 45

Executive

Order

77



OFFICIAL BUSINESS

Alaska State Legislature

Senate

Office of the Secretary

PO BOX V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

January 8, 1990

MEMORANDUM

TO: Senator Dick Eliason, Chair
Labor and Commerce Committee

FROM: Nancy Quinto *NQ*
Secretary of the Senate

RE: Executive Order No. 77

The President has referred Executive Order No. 77 (to reassign the labor relations functions of the Department of Administration personnel board, the Department of Labor, and the railroad labor relations agency into one state agency, the Alaska Labor Relations Agency, in the Department of Labor) to your committee.

Section 23, Article III of the Constitution states:

The governor may make changes in the organization of the executive branch or in the assignment of functions among the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders. The legislature shall have sixty days of a regular session, or a full session if of shorter duration, to disapprove these executive orders. Unless disapproved by resolution concurred in by a majority of the members in joint session, these orders become effective at a date thereafter to be designated by the governor.

Attachment

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

2077

January 8, 1990

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 23, of the Alaska Constitution, I am transmitting Executive Order No. 77, reassigning the labor relations functions of the Department of Administration's personnel board, the Department of Labor, and the railroad labor relations agency into a new agency in the Department of Labor, called the Alaska Labor Relations Agency. The Order will improve efficiency and effectiveness in the administration of labor relations in the state by having these functions centralized in one body. The order will not change the substantive rights and responsibilities of parties previously subject to the transferred organizations' authority.

The Order establishes a three-person body, appointed by the governor. The Order gives the new agency the same responsibilities as the previous organizations had concerning these functions.

I see the Order as an important step forward in enhancing opportunities for impartial and independent labor relations decision-making the the state. Since the Order consolidates existing functions, these goals can be accomplished at no additional cost to the state. I urge your support of this important legislation.

Sincerely,



Steve Cowper
Governor

EXECUTIVE ORDER NO. 77

Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with AS 24.08.210, I order the following:

* Section 1. FINDINGS. As governor, I find that it would be in the best interest of efficient administration to reassign the labor relations functions of the Department of Administration personnel board, the Department of Labor, and the railroad labor relations agency into one state agency, the Alaska Labor Relations Agency, in the Department of Labor. This reassignment is necessary in order to increase the efficient and effective management of labor relations, without changing the substantive rights and responsibilities of parties subject to the present agencies' jurisdiction. Such a reassignment will enhance the opportunities for impartial and independent labor relations decision-making in the state.

* Sec. 2. AS 23.05 is amended by adding new sections to read:

ARTICLE 5. LABOR RELATIONS AGENCY.

Sec. 23.05.360. ALASKA LABOR RELATIONS AGENCY. (a) There is established within the Department of Labor the Alaska Labor Relations Agency. The agency is comprised of three members appointed by the governor and confirmed by the legislature. The term of office of a member is three years. Members serve staggered terms in accordance with AS 39.05.055. A vacancy in an unexpired term shall be filled by appointment by the governor for the remainder of the term. The agency must include a member with a background in management, a member with a background in labor, and a member from the general public. All members must have relevant experience in labor relations matters.

(b) Not more than two members of the agency may be members of the same political party.

(c) Members of the agency may be removed by the governor only for cause.

1 (d) Members of the agency receive no compensation for their
2 services, but are entitled to per diem and travel expenses authorized
3 for boards and commissions.

4 Sec. 23.05.370. POWERS, DUTIES, AND FUNCTIONS OF ALASKA LABOR
5 RELATIONS AGENCY. (a) The agency shall

6 (1) establish its own rules of procedure;

7 (2) elect a chairperson from the membership;

8 (3) exercise general supervision and direct the activities
9 of staff assigned to it by the department;

10 (4) prepare and submit to the governor and the legislature
11 an annual report on labor relations problems it has encountered during
12 the previous year, including recommendations for legislative action;

13 (5) serve as the labor relations agency under the Public
14 Employment Relations Act (AS 23.40.070 - 23.40.260) and carry out the
15 functions specified in that Act; and

16 (6) serve as the railroad labor relations agency for the
17 Alaska Railroad under the Alaska Railroad Corporation Act (AS 42.40)
18 and carry out the functions specified in that Act.

19 (b) Two members constitute a quorum for the transaction of
20 business and two affirmative votes are required for final action on
21 matters acted upon by the agency.

22 Sec. 23.05.380. REGULATIONS. The agency shall adopt regulations
23 under the Administrative Procedure Act (AS 44.62) to carry out labor
24 relations functions under AS 23.05.360 - 23.05.390, AS 23.40.070 -
25 23.40.260, and AS 42.40.730 - 42.40.890.

26 Sec. 23.05.390. DEFINITION. In AS 23.05.360 - 23.05.390,
27 "agency" means the Alaska Labor Relations Agency established in
28 AS 23.05.360.

29 * Sec. 3. AS 23.40.250(3) is amended to read:

1 (3) "labor relations agency" means the Alaska Labor Re-
2 lations Agency established in AS 23.05.360 [STATE PERSONNEL BOARD WITH
3 REGARD TO THE STATE AND EMPLOYEES OF THE STATE, AND MEANS THE DEPART-
4 MENT OF LABOR WITH REGARD TO ALL OTHER PUBLIC EMPLOYEES AND ALL OTHER
5 PUBLIC EMPLOYERS];

6 * Sec. 4. AS 42.40.730 is repealed and reenacted to read:

7 Sec. 42.40.730. RAILROAD LABOR RELATIONS AGENCY. (a) The
8 Alaska Labor Relations Agency, established in AS 23.05.360, is the
9 sole railroad labor relations agency.

10 (b) The Alaska Labor Relations Agency shall carry out the pro-
11 visions of AS 42.40.730 - 42.40.890.

12 * Sec. 5. AS 42.40.890 is amended by adding a new paragraph to read:

13 (3) "railroad labor relations agency" means the Alaska
14 Labor Relations Agency established in AS 23.05.360.

15 * Sec. 6. INITIAL APPOINTMENTS. Notwithstanding the provisions of
16 AS 23.05.360(a), as enacted in sec. 2 of this Order, the governor shall
17 appoint the initial members to the Alaska Labor Relations Agency
18 (AS 23.05.360) by June 1, 1990, with staggered terms of one, two, and three
19 years, beginning July 1, 1990.

20 * Sec. 7. TRANSITION. (a) Regulations adopted by the labor relations
21 agency under AS 23.40.170, by the Department of Labor under AS 23.40.170,
22 and by the railroad labor relations agency under AS 42.40.820, and in
23 effect before July 1, 1990, remain in effect until regulations adopted by
24 the Alaska Labor Relations Agency under AS 23.05.380 take effect. The
25 Alaska Labor Relations Agency shall administer those other agencies' regu-
26 lations until its own take effect.

27 (b) All hearings, investigations, and other proceedings pending under
28 a law amended by this Order, or in connection with functions transferred by
29 this Order, may be continued and completed notwithstanding the transfer or

1 amendment provided for in this Order. All contracts, rights, liabilities,
2 and obligations created by or under a law amended by this Order, and in
3 effect on July 1, 1990, remain in effect notwithstanding this Order's
4 taking effect. However, all hearings, investigations, and other
5 proceedings pending before an agency identified in sec. 1 of this Order,
6 other than the agency created by this Order, shall be concluded no later
7 than December 31, 1990.

8 (c) The agencies identified in sec. 1 of this Order, other than the
9 agency created by this Order, shall complete, no later than December 31,
10 1990, adjudication of cases pending before them on July 1, 1990.

11 * Sec. 8. AS 23.40.230 is repealed.

12 * Sec. 9. Sections 1 - 5, 7, and 8 of this Order take effect July 1,
13 1990.

14 * Sec. 10. Section 6 of this Order takes effect immediately under
15 AS 01.10.070(c).

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
 Title: Alaska Labor Relation Agency BRU: Office of the Commissioner
 Consolidation _____
 Sponsor: Rules Committee Components: Commissioner's Office
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	113.0	113.0	113.0	113.0	113.0	113.0
TRAVEL	20.0	20.0	20.0	20.0	20.0	20.0
CONTRACTUAL	39.2	39.2	39.2	39.2	39.2	39.2
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	4.8	4.8	4.8	4.8	4.8	4.8
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	179.0	179.0	179.0	179.0	179.0	179.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	179.0	179.0	179.0	179.0	179.0	179.0
FEDERAL FUNDS						
OTHER						
TOTAL	179.0	179.0	179.0	179.0	179.0	179.0

POSITIONS:

FULL-TIME	2.0	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

(See Attached)

Prepared by: Jim Sampson *Jim Sampson* Phone: 465-2700
 Division: Department of Labor Date: 1/5/90
 Approved by Commissioner: Jim Sampson *Jim Sampson* Date: 1/5/90
 Agency: Department of Labor

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

**Fiscal Note Analysis
for
Alaska Labor Relation Consolidation**

This Executive Order provides for the consolidation of labor relations functions within the Department of Labor.

This consolidation would involve the hiring of two full time employees. One Labor Relations Hearing Officer (68.8) to oversee the necessary hearings and one technician (44.2) to assist in procedural issues under the statute, including representation elections, unit clarification issues and investigation and conciliation of complaints and unfair labor practice allegations.

Travel would include hearing officer and board member travel.

Contractual costs would include communication and postage (2.0), subscription and reference materials (2.5), Department of Law support (5.0), space rent (5.9), Indirect costs (8.8), and contractual hearing officer fees of (15.0)

Commodities and equipment are normal office startup and maintenance items.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
 Title: Alaska Labor Relation BRU: Labor Standards & Safety
 Consolidation _____
 Sponsor: Rules Committee Components: Wage & Hour
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	(15.8)	(15.8)	(15.8)	(15.8)	(15.8)	(15.8)
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(15.8)	(15.8)	(15.8)	(15.8)	(15.8)	(15.8)
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	(15.8)	(15.8)	(15.8)	(15.8)	(15.8)	(15.8)
FEDERAL FUNDS						
OTHER						
TOTAL	(15.8)	(15.8)	(15.8)	(15.8)	(15.8)	(15.8)

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Funds for professional hearing officer contracts will no longer be required by this component as the new Alaska Labor Relations Agency component will assume responsibility for Public Employment Relation Act activities.

(See related Fiscal Note)

Prepared by: Tom Stuart, Director Phone: 465-2712
 Division: Labor Standards & Safety Date: 1/5/90
 Approved by Commissioner: Jim Sampson Date: 1/5/90
 Agency: Department of Labor

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

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Administration
 Title: Executive Order No. 77 - Reassigning BRU: Central Administration
and Combining Labor Relations Functions
 Sponsor: Rules Committee Components: Labor Relations Agency
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL	(19.5)					
CONTRACTUAL	(93.0)					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(112.5)					
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	(112.5)					
FEDERAL FUNDS						
OTHER						
TOTAL	(112.5)					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Reassigns funding to the Department of Labor for combined Alaska Labor Relations Agency.

Prepared by: Mike Maher *Mike Maher* Phone: 465-2277
 Division: Administrative Services Date: 1-5-90

Approved by Commissioner: Frank Baxter *Frank Baxter* Date: 1-5-90
 Agency: Administration

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

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Administration
 Title: Executive Order No. 77 - Reassigning
and Combining Labor Relations Functions BRU: Central Administration
 Sponsor: Rules Committee Components: Railroad Labor Relations
 Requestor: Governor Agency

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL	(4.0)					
CONTRACTUAL	(31.0)					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(35.0)					
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER /A Receipts	(35.0)					
TOTAL	(35.0)					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Reassigns funding to the Department of Labor for combined Alaska Labor Relations Agency.

Prepared by: Mike Maher *M. Maher* Phone: 465-2277
 Division: Administrative Services Date: 1-5-90

Approved by Commissioner: Frank Baxter *Frank M. Baxter Jr* Date: 1-5-90
 Agency: Administration

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

SB

25



Alaska State Legislature

SENATE

Official Business

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

M E M O R A N D U M

TO: Senate Labor and Commerce Committee Members

FROM: Staff

DATE: February 1, 1989

RE: Summary of SB 25

SB 25 would require the licensing of condominium managers (common interest community managers) by the Division of Occupational Licensing. Only persons who contract with community associations to act as professional managers would be required to obtain this license. Smaller associations which are managed in-house by officers or board members of the association are unaffected by SB 25.

An individual licensed under SB 25 may renew the license if the person takes 24 hours per year of approved classes in the law of common interest communities or in business or accounting.

Officers or employees of AHFC or of a bank or other financial institution and attorneys licensed in the state would be exempt from this licensing requirement.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act relating to common interest community managers.
 Sponsor: Senator Falks
 Requestor: _____

Agency Affected: Commerce & Economic Dev.
 BRU: Occupational Licensing
 Components: Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		7.9	7.9	7.9	7.9	7.9
TRAVEL						
CONTRACTUAL		1.5	1.5	1.5	1.5	1.5
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		9.4	9.4	9.4	9.4	9.4
CAPITAL						
REVENUE		5.0	.5	6.0	.5	7.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER GF/PR		9.4	9.4	9.4	9.4	9.4
TOTAL		9.4	9.4	9.4	9.4	9.4

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS : (Attach separate page if necessary)

This fiscal note is based on the assumption that 50 individuals will be licensed initially, with a growth rate of at least 5 new applicants each year. The revenues to be generated are assuming licensees will pay \$50 per year and renew on a biennial cycle. The difference in revenues and costs are expected to be covered by the division's operating budget, until the fees are reassessed.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: January 18, 1989

Approved by Commissioner: Larry Mercurieff Date: 1/31/89
 Agency: Commerce and Economic Development

Distribution (by preparer):

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

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 25

Calculations for this fiscal note assume that common interest community managers, like all other licensing programs, will be responsible for sharing in the administrative costs of the division. Therefore, based on 50 licensees, common interest community managers will be responsible for covering .19% of the administrative costs. The .19% is derived by dividing the anticipated number of licensees (50) into the total number of licensees (26,995), not including business licenses.

FISCAL NOTE

REQUEST:

Revision Date: 2/3/89
Title: An Act relating to common interest community managers.
Sponsor: Senator Faiks
Requestor: Senate Labor & Commerce

Agency Affected: Commerce & Econ. Dev.
BRU: Occupational Licensing

Components: Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		7.9	7.9	7.9	7.9	7.9
TRAVEL						
CONTRACTUAL		1.5	1.5	1.5	1.5	1.5
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		9.4	9.4	9.4	9.4	9.4
CAPITAL						
REVENUE		5.0	.5	6.0	.5	7.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		9.4	9.4	9.4	9.4	9.4
TOTAL		9.4	9.4	9.4	9.4	9.4

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This fiscal note is based on the assumption that 50 individuals will be licensed initially, with a growth rate of at least five new applicants each year. The revenues to be generated are assuming licensees will pay \$50.00 per year and renew on a biennial cycle.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
Division: Occupational Licensing Date: 2/6/89

Approved by Commissioner: Larry Mercurieff Date: 2/2/89
Agency: Department of Commerce & Economic Development

Distribution (by preparer):

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

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 25

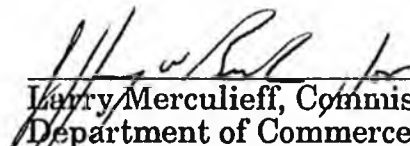
The differences in revenues and costs are expected to be covered by the division's operating budget until the fees are reassessed.

Calculations for this fiscal note assume that common interest community managers, like all other licensing programs, will be responsible for sharing in the administrative costs of the division. Therefore, based on 50 licensees, common interest community managers will be responsible for covering .19% of the administrative costs. The .19% is derived by dividing the anticipated number of licensees (50) into the total number of licensees (26,995), not including business licenses.

SB 25: An / relating to common interest community managers.

SB 25 proposes to establish a new category of licensure for common interest community managers, and places the program under AS 08.01, Centralized Licensing which is administered by the Department of Commerce and Economic Development.

The bill addresses all concerns previously expressed by the department regarding licensure of common interest community managers. The department, therefore, supports the bill provided the licensing of common interest community managers can be supported through reasonable licensing fees.


Harry Mercurieff, Commissioner
Department of Commerce & Economic
Development

Date: 1/31/89

mm0598t
013189b



Official Business

Alaska State Legislature

Senate

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

MEMORANDUM

January 12, 1989

TO: Senator Dick Eliason, Chairman
Senate Labor and Commerce Committee

FROM: Senator Jan Faiks, Chairman
Senate Judiciary Committee

SUBJECT: SB 25 "An Act relating to common interest community managers."

SB 25 has been referred to the Senate Labor and Commerce Committee for consideration. This bill adds a new chapter to Title 8 of the Alaska Statutes, requiring the licensing of common interest community managers.

Common interest communities are regulated in AS 34.07 (horizontal property regimes) and 34.08 (common interest communities). These communities include properties in which the owners of individual units in a building or other real property jointly own the common areas. The most common example is the condominium.

Common interest communities frequently employ a professional manager to handle the affairs of the community association, and various businesses bid to obtain these contracts. As you know, AS 34.07 and 34.08 are complex, and impose many legal requirements on the operation of common interest communities. Unfortunately, at the present time only a small percentage of persons working as professional managers are really qualified to do so.

Moreover, managers frequently have sole-signature authority over the reserve accounts of community associations. In Alaska, these accounts can total several hundred thousand dollars. There have already been cases of managers embezzling significant sums from local community associations.

To make certain that those who act as professional managers possess the minimum necessary level of knowledge, and to ensure that certain standards of integrity are maintained, I believe that the professional managers of community associations should be licensed by the state. SB 25 accomplishes these goals.

Following are some commonly asked questions about this legisla-

tion, and the answers to them:

1. What does a common interest community manager do?

The manager is responsible for the day-to-day operation of the association. This includes collecting dues, dealing with mortgagors, arranging for maintenance and repair on the common areas, perfecting liens, and keeping the books.

2. Is an independent board created to regulate managers?

No, the Department of Commerce and Economic Development is given this authority.

3. Do all persons who manage community associations have to be licensed?

No, only persons who contract with community associations to act as professional managers. Smaller associations which are managed in-house by officers or board members of the association are unaffected by this bill, since those persons are exempted from licensure.

4. How many people does this bill effect?

At the present time, it is estimated that approximately 50 persons are acting as the professional managers of community associations in Alaska.

5. Are persons currently acting as managers required to take classes in the law of common interest communities before receiving their initial license?

No. Since no classes are yet approved by the department, it is impossible to require this. Education is only required for renewal of the the initial license. The department has the discretion, however, to require first-time licensees to take classes in the future, when this beccmes practical.

Specifically, the bill makes the following changes and additions to current law:

Section 1 Makes AS 08.01, relating to centralized licensing, applicable to common interest community managers.

Section 2 Gives the Department of Commerce and Economic Development the authority to perform all necessary administrative duties with respect to the licensing of managers.

Section 3 Adds a new chapter to AS 08:

Sec. 08.15.010 (a) An individual, 18 years of age or older, shall be licensed by the department on payment of a fee, on

proof that the individual has not engaged in conduct that is grounds for imposing disciplinary sanctions under AS 08.15.040, and on meeting any additional requirements established by the department.

(b) An individual licensed under (a) may renew the license if the person takes 24 hours per year of approved classes in the law of common interest communities or in business or accounting.

Sec. 08.15.020 Exempts certain persons from licensing requirements, including (a) officers or employees of AHFC or of a bank or other financial institution; (b) an attorney licensed in the state; (c) an officer or member of the board of a common interest community who is managing that community; or (d) an employee of a common interest community other than the manager.

Sec. 08.15.030 Authorizes the department to set licensing fees.

Sec. 08.15.040 Specifies grounds for imposing disciplinary sanctions on a manager.

Sec. 08.15.050 Specifies the types of sanctions which may be imposed for committing an act under .040.

Sec. 08.15.060 Prohibits persons who are not licensed or exempted from licensure from managing a common interest community.

Sec. 08.15.070 Makes violations of 08.15.060 a class B misdemeanor.

Sec. 08.15.080 Authorizes the department to adopt regulations to implement this chapter.

Sec. 08.15.100 Defines "department" as the Department of Commerce and Economic Development.

Section 34.08.490(b) Makes a technical change to AS 34.08.490(b).

Please contact my office if you have any questions or comments.

Thank you.

S B

39

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 1/11/89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

1/9/89

DATE TURNED INTO OFFICE 1/18/89

Mr. President:

L&C Committee considered SB 39

Amateur Radio week

and recommended:

- replace with CS _____ same title
- attached amendment(s) and new title
- _____ letter of intent adopted
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

FISCAL NOTE(S) attached zero fiscal impact
 appropriation no FN attached Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]

[Signature]
 Chairman signature and recommendation

Committee backup attached

Alaska State Legislature

Senator Paul Fischer
Senate District D
Box 714
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269 H



State Senate

While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3791

MEMORANDUM

TO: Senator Dick Eliason, Chairman
Senate Labor & Commerce Committee

FROM: Senator Paul Fischer *PF*

SUBJECT: Senate Bill 39
(relating to Amateur Radio Week)

DATE: January 10, 1989

I would appreciate your scheduling the above referenced bill for a hearing before the Senate Labor & Commerce Committee at your earliest possible convenience.

As you are aware, identical legislation passed the Senate unanimously, early, during the Fifteenth Legislature. Additionally, last session, the House State Affairs and Telecommunications Committees reported the bill out of their respective committees with "unanimous" do-pass recommendations. The House Labor & Commerce Committee also considered this bill and reported it out with 3 "do pass" votes and 2 "no recommendations". It was never calendared by the House Rules Committee for House action.

Your consideration would be greatly appreciated.

PAF/sgn

Alaska State Legislature

Senator Paul Fischer
Senate District D
Box 784
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269 H



State Senate

While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3791

MEMORANDUM

TO: Senator Dick Eliason, Chairman
Senate Labor & Commerce Committee

FROM: Senator Paul Fischer *PF*

SUBJECT: Senate Bill 39
(relating to Amateur Radio Week)

DATE: January 10, 1989

Passage of this legislation will mark the annual observance of amateur radio week in Alaska. It will also coincide with the nationwide "Field Day" activities that the American Radio Relay League sponsors each year on the fourth Saturday in June.

The primary reason for my introduction of this legislation is to recognize the important service that amateur radio operators, better known as "Hams", have and will continue to provide in the State. In numerous cases, amateur radio operators have been the only link between Alaska and the lower forty-eight states. For an example, during the 1964 Alaska Earthquake; amateur radio operators provided the first reports to the world that Kodiak had survived the earthquake. During the days that followed, they were the only viable communication the state could depend upon. As stated in the preliminary report, concerning the Great Earthquake, prepared by the Office of Civil Defense; Office of the Secretary of the Army, and the Department of Defense....."Amateur radio was indispensable in this disaster. One of the reasons for this capability is that amateur radio is an integral part of many Alaskans'daily communication with other places".....

Additionally, when local emergencies occur such as fires and automobile accidents, amateur radio operators very often play a part in relaying information, vital to the public's safety, as well as aiding in contacting the victims next of kin. Many operators offer to send free messages, during the holidays, to families of our serviceman.

For these special reasons, I think it is important that amateur radio operators be officially recognized.

STATE OF ALASKA 1989 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: S839
Publish Date: _____

REQUEST _____

Revision Date: _____ Agency Affected: A11
Title: An Act relating to Amateur BRU: _____
Radio Week
Sponsor: Fischer Components: _____
Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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



FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

Prepared By: Dean Gottehrer  Phone: 465-2200
Division: Commissioner's Office Date: 1/17/89
Approved by Commissioner: John M. Andrews  Date: 1/17/89
Agency: Department of Administration

Distribution (by preparer):

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

S B

40

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 2/9/89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

RES
FIN

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 2/23/89

1/9/89

Mr. President:

L&C

Committee considered

SB 40

creating the Resource Development Dispute Resolution Task Force; efd

and recommended:

[] replace with CS SB⁴⁰ (L+C) same title

[] attached amendment(s) and new title

[] _____ letter of intent adopted

do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

FISCAL NOTE(S) attached zero
[] appropriation no FN attached

[] fiscal impact
[] Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures]

[Handwritten signature]
Chairman signature and recommendation

[] Committee backup attached



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER SB40	SPONSOR Szymanski and Eliason
SHORT TITLE OF BILL Resource Development Dispute Resolution Task Force			
DEPARTMENT POSITION Neutral			
PREPARED BY Frank Rue, Director	DATE 2/16/89	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 2/17/89

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Other state agencies	CONSTITUENT GROUP(S) AFFECTED BY BILL Unknown
ORGANIZATIONAL SUPPORT FOR BILL Not familiar with extent and nature of support	ORGANIZATIONAL OPPOSITION TO BILL None known

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

This bill would create a task force to develop legislation or other ways of establishing and operating project-specific industry/public advisory groups that would prevent or resolve conflicts, disputes, or concerns during various phases of industrial development.

ANALYSIS OF BILL/PROGRAM EFFECTS

None for SB40. However, see Analysis section of attached fiscal note.

AMENDMENTS PROPOSED

None

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Dept. of Fish & Game
 Title: Resource Development Dispute BRU: Habitat
Resolution Task Force
 Sponsor: Szymanski Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		79.5				
TRAVEL		2.0				
CONTRACTUAL		1.5				
SUPPLIES		-				
EQUIPMENT		-				
LAND & STRUCTURES		-				
GRANTS, CLAIMS		-				
MISCELLANEOUS		-				
TOTAL OPERATING		83.0				
CAPITAL		-				
REVENUE		-				

FUNDING: (Thousands of Dollars)

GENERAL FUND	83.0				
FEDERAL FUNDS	-				
OTHER	-				
TOTAL	83.0				

POSITIONS:

FULL-TIME	1½				
PART-TIME					
TEMPORARY					

ANALYSIS : (Attach a separate page if necessary)

Cost estimate assumes: 1) legislation implementing the intent of SB40 (i.e. development of project-specific advisory groups) passes in FY90, and 2) participation in up to 5 advisory groups by staff in Habitat Division HQ and three regional offices.

Prepared by: Frank Rue, Director Phone: 465-4105
 Division: Habitat Division Date: 2/16/89
 Approved by Commissioner: [Signature] Date: 2/17/89
 Agency: Fish and Game

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: 2-16-89
Title: Resource Development Dispute
Task Force
Sponsor: Senator Szymanski
Requestor: Senate Labor and Commerce

Agency Affected: _____
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

It is anticipated that task force participants will fund their own expenses and interim legislative staff will provide administrative support.

Prepared by: Senator Mike Szymanski
Division: Legislative Affairs

Phone: 465-4978
Date: February 16, 1989

Approved by Commissioner: _____
Agency: _____

Date: February 16, 1989

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Dispute Resolution Task Force
Sponsor: Senator Szymanski
Requestor: Senate Labor and Commerce

Agency Affected: _____
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

It is anticipated that task force participants will fund their own travel expenses and interim legislative staff will provide administrative support.

Prepared by: Senator Mike Szymanski Phone: 465-4978
Division: Legislative Affairs Date: 2-28-89

Approved by Commissioner: _____ Date: 2-28-89
Agency: _____

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

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF GOVERNMENTAL COORDINATION

STEVE COWPER, GOVERNOR

P.O. BOX AW
JUNEAU, ALASKA 99811-0165
PHONE: (907) 465-3562

February 16, 1989

The Honorable Richard Eliason
Chairman
Senate Labor and Commerce
Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Eliason:

At your request, I am writing regarding the Administration's position on Senate Bill 40. The Administration is supportive of conflict resolution efforts to enhance development opportunities in the State. The State's present permitting process, enacted five years ago, has made substantial progress at providing an effective forum to bring parties with disparate interests together and reduce conflict between them. The task force as envisioned by the legislation might find new ways to resolve conflict between potential project developers and the interested public.

Given the State's success with its present permitting process and the natural concern that might arise regarding any potential changes to that process, we recommend the inclusion of the language in the attachment. This section would lay to rest any concern one might have regarding possible changes to the permitting process brought about by passage of SB 40.

Thank you for the opportunity to comment. Please call if I can answer questions.

Sincerely,



Robert L. Grogan
Director

Attachment

AMENDMENT FOR SB 40:

Add a new Section 3; renumber current Sections 3 and 4 as Sections 4 and 5.

*Sec. 3. The establishment of the task force is not intended to limit, modify, supercede, or in any other manner affect the authority of the state to render consistency determinations under 6 AAC 50.

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPTION
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 15, 1989

SUBJECT: Bidder's preference--constitutional
question (SB 58, Work Order No. 6-0200A)

TO: Senator Dick Eliason

FROM: Theresa Bannister *TB*
Legislative Counsel

You have requested an opinion on the constitutional questions raised by the legal counsel for Dames & Moore regarding the bidder's preference in AS 36.30.170 as it presently applies to partnerships. The position in the letter is that the bidder's preference discriminates against partnerships. It is my understanding that you do not want this opinion to address the constitutionality of resident bidder preference in general.

I agree with Mr. O'Donnell that the differing treatment of entities under AS 36.30.170 can produce some results that undermine the purpose of the statute and discriminate unreasonably against partnerships. If handled under the state's equal protection provision, a challenge to the treatment of partnerships on this basis would have a good possibility of being successful. It is my opinion that the state equal protection provision is the appropriate provision to consider in this case, since this is a question of differing treatment within the statute, not the extent to which resident preference may be required by the state. However, since art. 1, sec. 23 of the state constitution states that resident preference is to be allowed to the extent allowed by federal law, a court may apply the more lenient federal equal protection clause. In that case, although I believe that the present statutory treatment of entities is not completely rationally related to achieving the statute's goal, it would be more difficult to find the provision unconstitutional because the rational basis test under that provision is nearly a presumption of constitutionality.

Senator Dick Eliason
Page 2
February 15, 1989

With regard to the issue of subcontracting, I do not view this as a significant problem since a prohibition against subcontracting could be inserted in the contract between the state agency and the contractor.

If I may be of further assistance, please advise.

TB:kb
wkk2/006



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4978/4979

Interim
3111 C Street
Suite 510
Anchorage, AK 99503
(907) 561-7617

February 7, 1989

165 E. Parks Hwy.
Suite 105
Wasilla, AK 99687
(907) 376-MIKE

MEMORANDUM

TO: Senator Dick Eliason *Mike*
FROM: Senator Mike Szymanski
RE: Scheduling Hearing of SB 40, Resource Development
Dispute Resolution Task Force

I wish to request a hearing of SB 40, a bill creating a dispute resolution task force to mediate disputes surrounding resource development projects.

Attached is a copy of the bill and a briefing paper describing the concept and implementation of a dispute resolution task force. A fiscal note from the Governor's Office should be ready by the end of the week.

BRIEFING PAPER

SUBJECT: PROPOSED LEGISLATION ON RESOURCE DEVELOPMENT

DISPUTE RESOLUTION

Submitted by Senator Mike Szymanski

PREFACE

For some time now, I've been interested in finding ways that Alaska can encourage the development and safe operation of large commercial/industrial projects while minimizing, or eliminating, the conflicts that have traditionally arisen between industry, the public, the State, and special interest groups.

This has led me to examine possible systems for promoting a sense of cooperation between diverse, and often conflicting groups, and providing a forum for reaching consensus. Such a system could alleviate the confrontations and help to avoid the litigation which often occurs between opposing groups - usually at a high cost to all parties.

For the purpose of clarification, the term "industry" is herein used in a broad sense to include any commercial enterprise.

Within the arena of environmental/industrial dispute resolution, there are certain assumptions which I believe can be made and generally accepted:

- * it is in the State of Alaska's best interest to encourage responsible economic diversification.
- * economic development and diversification may occur in a context which is compatible with environmental protection. Recent technological advancements enable industry to promote our economic well-being while at the same time protecting a healthy, clean environment and protecting our renewable resources.
- * conflicts between industry, the public, and the State are costly and time-consuming. Resolution of problems through consensus and cooperative agreements is preferable to adversarial methods.
- * for any dispute resolution legislation to be truly effective it must be developed cooperatively, through consensus with representatives of all the diverse interests that would be affected.

The following briefing will be divided into three sections:

A) THE CONCEPT: I will be presenting a concept which will provide for the establishment of project-specific industry/ public advisory groups. These groups will serve to prevent and resolve conflicts, disputes or concerns which may arise during phases of industrial development. This function would facilitate and enhance the responsible development of industrial projects in Alaska.

B) INTERIM TASK FORCE: I will recommend the introduction of "temporary act" legislation to create an interim Task Force in 1989.

The task force would be charged with looking at ways of implementing the above concept. It would be the responsibility of the task force to deal with the specific questions of how to create a structure such as an alternative dispute resolution system.

The task force would be only as effective as the participants who compose its membership and any legislation which is recommended would be the result of consensus on the part of all members. This is why it is important for industry, and the public and private sectors to be equitably and fully represented.

C) INTRODUCTION OF DISPUTE RESOLUTION LEGISLATION: The findings of this interim task force, together with its recommendations, would result in permanent legislation which would be introduced in 1989. This legislation would establish in statute a formal mechanism for resource development dispute resolution.

A) CONCEPT FOR FORMATION OF PROJECT-SPECIFIC INDUSTRY/PUBLIC ADVISORY GROUPS

OVERVIEW

For each industrial project that is planned in Alaska, there would be formed an advisory group composed of representatives from the industry(ies) involved; the local government entities and state and federal agencies affected; the university and scientific communities; tourism groups; environmental groups, and other affected parties.

It is important to stress that this core group would exist from the time that the PROJECT WAS FIRST ENVISIONED, through the siting and permitting processes, through construction, and into the project's operational phases. The advisory group would, therefore, be an ongoing and permanent working group for the life of the project.

Each group would act in an advisory capacity and not be technical in nature. However, a group would have the latitude to recommend the undertaking, by experts, of particular research, studies fact-finding which would enhance the project's overall development.

FUNCTIONS OF THE ADVISORY GROUPS

- 1: to provide an open forum for the exchange of information between the industry; affected and interested citizens groups; special interest groups, and the state and federal governments.
- 2: to provide a mechanism whereby industry may address the concerns of interested groups and individuals on a factual basis BEFORE such concerns escalate into confrontation.
- 3: to encourage a trusting relationship between the public and industry. The advisory group would also help to short-circuit industry-citizenry conflicts by providing factual information on operational and regulatory compliance to all affected groups on a regular basis.
- 4: to freely form task forces or subcommittees to identify potential problems; gather information on the regulatory process for report to the core group, and investigate the need for research in environmental and socio-economic areas.

AREAS OF EFFECTIVE UTILIZATION OF ADVISORY GROUPS

1. Mariculture: At this point, there are both proponents and opponents of introducing a finfish mariculture industry in Alaska. If an advisory group such as described above had been formed before any legislation had been introduced, there might have been a more cooperative effort to reach a compromise rather than the polarization which has occurred.

2. Chase III Land Disposals: The state has spent many thousands of dollars on this issue which was ultimately litigated through the court system. Again, an advisory group representing all interests may have been able to resolve the problem through consensus before it became confrontational.

3. Greens Creek Mining Project, Juneau: Greens Creek is a mining project which is taking place within a national monument. While no formal advisory group was formed to mediate differences between interested parties, a representative of the company spent a great deal of time and effort working with various groups and individuals to discuss problems and concerns before the project was started. The project's effort to share information and invite input from various groups created an atmosphere of trust and open cooperation between the industry and the public.

4. The Hatcher Pass Management Plan and Advisory Group: The Hatcher Pass advisory group was formed by the Mat-Su Borough to deal with the development of the Hatcher Pass area. The group consists of representatives of industry and state and local government, and invites input from various organizations such as the Miners and Trappers Association and recreation groups. The Department of Natural Resources prepared the Hatcher Pass management plan in cooperation with the advisory group. The advisory group continues to be active in the operational phases of the plan.

WHAT HAS BEEN ACCOMPLISHED IN OTHER STATES?

There are several examples of project-specific dispute resolution systems and legislation which have been proposed or are currently in place (see attachments). Of these, the Arizona Groundwater legislation and the Wisconsin Hazardous Waste Siting Legislation are landmarks of successful dispute resolution systems which were developed in cooperation with many diverse interests.

In both cases, the final outcome mandated a certain process and resulted in strong legislation. Industry supported and agreed with the restrictions outlined by the regulations and the legislation withstood court challenges.

I posed the following question to Gordon Meeks, of the National Council on State Legislatures; Gerald McCormick, of the Mediation

Institute, in Seattle, and to former Montana Speaker of the House, Dan Kemmis: "What do you believe is the primary reason for the success of the dispute resolution legislation which has been implemented in Wisconsin and Arizona?"

Without hesitation, all three individuals credited the process of developing the legislation as the key factor in the success of the legislation itself. All the individuals and groups who were directly or indirectly involved in the projects were included in the negotiations and the drafting phase of the legislation - a great deal of time was taken to see that all concerns were met.

However, while Arizona and Wisconsin have developed legislation to deal with specific environmental concerns, no state has established a mechanism for institutionalizing an industrial/environmental dispute resolution system intended to cover all types of situations and satisfy many diverse groups. A great deal of interest has been generated to see what type of legislation Alaska intends to propose that would specifically develop this type of system.

QUESTIONS WHICH MAY BE POSED IN CONSIDERING THIS CONCEPT

1. "Why do we need to create more advisory groups? we already have advisory groups for major projects in the state."

The advisory groups which currently exist in Alaska do not meet the various criteria that need to be present for the industry-environmental advisory groups. Based on the evaluation of what has been done in other states, the following criteria must be present if these groups are to be effective. A successful dispute resolution advisory group must be:

- * project-specific;
- * equitably composed of all individuals/groups who are involved in the project, either directly or indirectly;
- * formed and established at the beginning stages of project -- even prior to the permitting process;
- * ongoing and permanent;
- * and actively involved with the mediation and mitigation of environmental and socio-economic impacts.

The Senate Advisory Council has prepared a report cataloging the various advisory groups which exist within State government. The responses from agencies indicate that while there may be industrial "advisory groups" in Alaska, they do not meet all of the above criteria. Often, groups are not created at the incipient stages of the project, or they are created for some specific and limited phase of development (e.g., siting/permitting advisory groups which work with Governmental Coordination).

2. What industries would be considered for the formation of such groups?

The concept could be applicable to all industrial projects (e.g., mining, timber, oil/gas, fishing and tourism).

3. How would dispute resolution advisory groups relate to existing structures or mechanisms established to facilitate industrial development? Would they replace what we already have?

The concept of industrial/public advisory groups is not intended to replace other forums or institutional mechanisms. Rather, it would provide additional ways to effectively deal with situations and solve problems and disputes which are bound to occur.

For example, the Office of Governmental Coordination has a viable, though complex, mechanism for state/federal/local input with regard to the permitting process. To enhance representation in the industry/public advisory group, a representative from the OGC would be included (at least for the portion of the project devoted to permitting) to provide input and inform the group of problems and areas which might need more research or study.

4. Would the group have any function with regard to the State's regulatory powers?

No. The State has certain regulatory powers which are mandated. The concept of these advisory groups is in no way intended to dilute, weaken, or interfere with these mandates.

CONCERNS ABOUT STRUCTURE AND IMPLEMENTATION OF ADVISORY GROUPS

As I approached different individuals, agencies and organizations about the concept of dispute resolution advisory groups, some very specific questions were asked about how such groups would be created and utilized. For example:

1. Who would decide what projects should have dispute resolution groups?
2. Would the advisory groups be mandated or would they be optional?
3. Where would this concept "fit" into our present state structure? Do we need a specific Office of Dispute Resolution to facilitate the formation of such groups?
4. What project size/scope would trigger the need for such a group?
5. What role would a mediator/negotiator play in such a process?

6. What would be the cost and who would bear it?
7. What would be the situation for those projects which are already ongoing. Would the concept of a project-specific advisory group be applicable for such endeavors?

All of these questions are extremely important and serve to accentuate the complexity of the issues and the need for time and input from many different sources. The primary responsibility of the Dispute Resolution Task Force would be to address these types of concerns and determine, by consensus, the most reasonable and effective methods for resolution.

B) CREATION OF AN INTERIM TASK FORCE

OVERVIEW

During the First Session of the 16th Alaska Legislature, legislation will be introduced to establish an interim environmental/industrial dispute resolution task force.

The task force would be composed of representatives of many diverse groups and interests. The following are some, though not necessarily all of the groups which would have membership on the task force: timber, mining, oil/gas, fishing, tourism, environmental, local government entities, native groups, state agencies, federal agencies, legislative delegations.

TASK FORCE GOALS

The ultimate goal of the Task Force would be to develop legislation along the lines of the industry/public advisory group concept which has been outlined previously. This legislation will be introduced at the beginning of the First Session, Sixteenth Alaska State Legislature, 1989.

However, I also see the possibility that a different concept for institutionalizing a dispute resolution system might emerge as the result of the task force work. I think it important to keep the forum as flexible as possible; whatever emerges will be based on a great deal of time, effort and consensus, and will be tailored to meet Alaska's needs.

RATIONALE FOR THE CREATION OF A TASK FORCE

My decision to recommend the creation of a task force to develop the legislation was based on the following:

1. the development of a dispute resolution system in statute takes time - time for the legislation to evolve and to "educate" those who will have good reason to be apprehensive about it; it takes time to resolve specific questions of implementation, some of which I have already outlined.
2. The experiences of other states have demonstrated that the process of developing the legislation is as important if not more important than the legislation itself. The task force will put the concept "on the table" and will set the stage for the specific work which will subsequently occur.

Legislation establishing a dispute resolution system must be developed by the individuals and representatives of groups who will be using the legislation. It requires consensus of all the "stake makers". If certain interests are inadequately represented or not represented at all, the legislation is doomed to failure.

It quickly became apparent that approaching each group/ interest one at a time was inefficient and I felt that bringing the diverse interests together to really brainstorm and deal with the issues would be much more productive.

3. The task of creating a mechanism which would be relevant for all industrial projects requires a very fine balance between structure and flexibility and will take time and energy.
4. Choosing to create the task force with legislation (rather than just appointing one) provides for input from many sources, as a part of the committee process. This will "formalize" the existence of the task force. The ultimate legislation will then, hopefully, have the formal approval of the Legislature, the Administration, and the public and private sectors.

C) INTRODUCTION OF ENVIRONMENT/INDUSTRY DISPUTE RESOLUTION LEGISLATION

The third and final step will be the introduction of dispute resolution legislation during the first session of the Sixteenth Alaska State Legislature.

The legislation itself will have been developed by the Task Force and will thus incorporate its recommendations. Because the process of developing the legislation will have been the result of consensus and negotiation among many diverse interests, the legislation will, hopefully, have the support of those groups who will ultimately be directly and indirectly affected by it.

SUMMARY

In conclusion, it is my hope that with this briefing paper, the reader will be "sparked," as I have been, by the idea of introducing industrial/environmental dispute resolution legislation.

Given the economic environment in Alaska and the State's encouragement of private enterprise, I believe that such legislation is appropriate and well-timed.

As I have indicated at several points, it is of the utmost importance that all the various groups and interests which

would be impacted by such a dispute resolution system be directly involved in the development and implementation of such a concept. With this in mind, I hope that the readers of this briefing paper will share their thoughts and concerns with me.

INITIAL CONTACTS WHICH HAVE BEEN MADE REGARDING THIS CONCEPT AND THE PROPOSED LEGISLATION.

Staff has met with representatives of the Office of Governmental Coordination, the Departments of Environmental Conservation, Natural Resources, Fish and Game, and the Office of the Attorney General. The reception was very positive.

Gordon Meeks of the National Council on State Legislatures has been contacted. He expressed enthusiasm for the concept and has provided a wealth of material on what has happened in other states. He has also indicated that funds may be available to provide technical assistance to the task force.

Gerry McCormick, Mediation Institute, Seattle. His firm has worked previously in Alaska and he is very familiar with the type of legislation we are considering. His institute has provided some of the enclosed material.

The Resource Development Council has been consulted prior to meeting with industry.

Copies of the briefing paper will be sent to environmental groups, local government entities and other special interest groups with a request for their input.

Dan Kemmis, Former Speaker of the House of Representatives for the State of Montana was involved in this type of legislation and is presently working with Northern Lights Consulting Services. Much of the work they are doing is in the area of environmental/industrial dispute resolution.

S B

45

JAN 18 1989

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 18, 1989

SUBJECT: Sectional analysis of SB 45
TO: Senator Drue Pearce
FROM: Theresa Bannister ^{tb}
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 makes legislative findings for the bill.

Section 2 prohibits, except as necessary to contact the persons on certain contractor lists, an agency from soliciting outside of the state for a contract unless the specified procurement officer determines in writing that the agency has solicited within the state and that one of three other conditions exists. States that the section doesn't apply to contracts for professional services to be performed outside the state that require knowledge of the customs, procedures, rules, or laws of the area. Defines "agency" to include the University of Alaska, the Alaska State Building Authority, and the Alaska Railroad Corporation.

Section 3 prohibits a state agency from soliciting outside the state for an individual to fill a position as a state employee unless the personnel officer makes a written determination that the agency has actively solicited in good faith in the state for a specified period and hasn't been able to find a qualified individual. Defines "personnel officer" to mean certain persons in the executive and legislative branches. Lifts the prohibition if certain conditions are met.

TB:kb
wkk1/045

CS incorporates these amendments

AMENDMENT TO MARCH 6, 1989 DRAFT CS SB 45 (L & C)

The proposed amendment would allow agencies to make a solicitation out-of-state for Competitive Sealed Proposals or Invitations to Bid after first conducting a solicitation in-state and not receiving responsive responsible offers. It does not require a written determination by the Chief Procurement Officer.

It requires a written determination from the Chief Procurement Officer or Commissioner of Transportation only if an out-of-state solicitation is in the public interest or is necessary to provide reasonable competition.

The amendment deletes the requirement for agencies to first solicit in-state prior to soliciting out-of-state for procurements authorized as sole source (AS 36.30.300), limited competition (AS 36.30.305), emergencies (AS 36.30.310), and small procurements (AS 36.30.320). Except for small procurements these procurements already require a written determination that the specific procurement method is the only one that will meet the State's needs.

This amendment deletes the need for redundant determinations. Sole source procurements already require a determination that there is no other source which can meet the State's needs. Limited competition procurements must have a determination that a situation exists that makes competitive sealed bidding or competitive sealed proposals impractical or contrary to the public interest. A written determination by the procurement officer or the Chief Procurement Officer is also required for an emergency procurement which identifies the basis of the emergency and selection of the contractor.

Revise beginning Page 1, line 23:

...the for a contract unless :

- (1) the chief procurement officer, or, for construction contracts or procurements for the state equipment fleet, the commissioner of transportation and public facilities determines in writing that [(1)] out-of-state solicitation is in the public interest or necessary to provide reasonable competition; or
- (2) the agency has solicited within the state and
 - (A) the agency has not received a responsive bid from a responsible bidder, if the

agency is procuring the contract under AS 36.30.100 - 36.30.190;

(B) the agency has not received a responsive proposal from a responsible offeror, if the state is procuring the contract under AS 36.30.200 - 36.30.270; or

[(C) A SOURCE FOR THE REQUIRED PROCUREMENT IS NOT AVAILABLE IN THE STATE, IF THE PROCUREMENT IS MADE UNDER AS 36.30.300, 36.30.305, 36.30.310, OR 36.30.320.]

Revise Page 2, following Line 18 add:

(4) meeting the provisions of AS 36.30.300 for a sole procurement;

(5) meeting the provisions of AS 36.30.305 for a limited competition procurement;

(6) meeting the provisions of AS 36.30.310 for an emergency procurement;

(7) meeting the provisions of AS 36.30.320 for a small procurement.

6-0234E✓
Bannister
3/6/89

Original sponsors: Pearce, Fischer,
Rodey, et al.

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 45 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to out-of-state solicitation for
7 state contracts and state employees."

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

9 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that

10 (1) the state is experiencing economic difficulties and the rate
11 of unemployment is very high;

12 (2) the state contains a pool of able-bodied and skilled workers
13 and organizations from which the state could, in most instances, find the
14 persons necessary to perform its contracts and fill its employment posi-
15 tions;

16 (3) before advertising outside the state, the state should
17 conduct a search in the state for persons and organizations to perform its
18 contracts and to fill its positions.

19 * Sec. 2. AS 36.30 is amended by adding a new section to read:

20 Sec. 36.30.875. OUT-OF-STATE SOLICITATION OF CONTRACTS. (a)

21 Except as necessary to contact the persons on the contractor lists
22 established under AS 36.30.050, an agency may not solicit outside of
23 the state for a contract unless the chief procurement officer, or, for
24 construction contracts or procurements for the state equipment fleet,
25 the commissioner of transportation and public facilities determines in
26 writing that

27 *added* (1) out-of-state solicitation is in the public interest or
28 necessary to provide reasonable competition; or

29 (2) the agency has solicited within the state and

1 (A) the agency has not received a responsive bid from
2 a responsible bidder, if the agency is procuring the contract
3 under AS 36.30.100 - 36.30.190;

4 (B) the agency has not received a responsive proposal
5 from a responsible offeror, if the state is procuring the con-
6 tract under AS 36.30.200 - 36.30.270; or

7 (C) a source for the required procurement is not
8 available in the state, if the procurement is made under AS 36.-
9 30.300, 36.30.305, 36.30.310, or 36.30.320.

10 (b) This section does not apply to a contract

11 (1) for professional services to be performed in an area
12 outside of the state and requiring knowledge of the customs, proce-
13 dures, rules, or laws of the area;

14 *added* (2) made by an agency employee for a travel or other ex-
15 pense incidental to the trip while the employee is traveling outside
16 of the state on state business; or

17 (3) for an agency office that is located outside of the
18 state.

19 (c) In this section

20 (1) "agency" includes the University of Alaska, the Alaska
21 State Building Authority, and the Alaska Railroad Corporation;

22 (2) "solicit" includes advertising, initiating contact with
23 a person, and sending an invitation to bid or a request for proposals
24 to a person who has not requested the invitation or request.

25 * Sec. 3. AS 39.25 is amended by adding a new section to read:

26 Sec. 39.25.165. OUT-OF-STATE SOLICITATION OF EMPLOYEES. (a)
27 Except as provided in (b) of this section, a state agency, including
28 the division of personnel, may not solicit outside the state for an
29 individual to fill a position as a state employee unless the personnel

1 officer determines in writing that the agency has actively solicited
2 in good faith in the state during the entire three-month period that
3 followed the date when the agency began soliciting for the position
4 and has been unable to find an individual who is qualified for the
5 position. In this subsection, "personnel officer" means the commis-
6 sioner of administration for a state agency of the executive branch,
7 the speaker of the house of representatives for the members, commit-
8 tees, and leadership of the house of representatives, the president of
9 the senate for the members, committees, and leadership of the senate,
10 and the executive director of the Legislative Affairs Agency for the
11 other entities of the legislative branch.

12 (b) The prohibition in (a) of this section does not apply if the
13 state agency is

14 (1) in the executive branch and the governor makes a writ-
15 ten finding that the state agency is not likely to be able to find an
16 individual who is qualified for the position by soliciting in the
17 state;

18 (2) in the legislative branch and the legislative budget
19 and audit committee makes a written finding that the state agency is
20 not likely to be able to find an individual who is qualified for the
21 position by soliciting in the state.

22 (c) In this section

23 (1) "position" includes a position in the exempt or par-
24 tially exempt service, except a position identified in AS 39.25.-
25 110(1) - (2) and (5);

26 (2) "solicit" includes advertising, initiating contact with
27 an individual, and sending a copy of an employment vacancy notice to
28 an individual who has not requested the notice.



MAKE IT ALASKAN, INC.

3202 Spenard Road, Suite 200
P.O. Box 93001
Anchorage, Alaska 99509-3001
(907) 258-2878

FEB 19 1988

February 17, 1988

EXECUTIVE COMMITTEE

President
P. David Choquette
Vice-President
Scott Hawkins
Treasurer
Denise Knapp
Secretary
Kathy L. McKibben
Ernie Hall
William C. Lee
Dave Harbour

DIRECTORS

Steve Agni
Wayne Beckwith
Reyn Bowman
Les Brattain
Dana Brockway
Bill Choquette
Berty Davis
Mark Dawson
Nancy Dickinson
George Easley
Joe Evans
Joe Faulhaber
Mano Frey
Gene Furman
Dick Hall
Harold Kerslake
Carl Marrs
Debra K. Mason
Mark Nelson
Steve Nerland
Greg O'Claray
Malcom Roberts
Steve R. Smirnoff
Stan Smith
Greg Strong
Frank Turpin
Jose Vicente
Jerry Weaver
Doug Wise
Connie Yoshimura

EX-OFFICIO

Charity Kadow
Caren Mathis
James Wiedeman

Rep. Drue Pearce
Post Office Box V
Juneau, Alaska 99811

Dear Rep. Pearce:

Make It Alaskan, Inc., supports and encourages the passage into legislation of House Bill 450, an act relating to out-of-state solicitation for state contracts and state employees.

Considering Alaska's current economic condition and the high rate of unemployment, it is now more important than ever to take positive steps to ensure that, whenever possible, Alaskans and Alaskan firms are given the maximum opportunity to participate in the economic recovery and development of the state. The vitality generated by employed and contributing citizens and businesses in the state of Alaska will provide an energy and source of pride in state and community that promises to surpass even the financial benefit.

House Bill 450 gives Alaskan residents and Alaskan businesses the advantage of being asked first. Make It Alaskan, Inc., firmly believes that the state SHOULD ask Alaskans first; now, in these difficult times, and always.

Please consider this a statement of support and we will help in any way possible to assure passage in the Legislature this year. Let me know what we can do.

Kindest personal regards,

P. David Choquette
President
Make It Alaskan, Inc.

PDC/tal

Letter of Support

DEPARTMENT OF ADMINISTRATION
POSITION PAPER

DIVISION: General Services & Supply

BILL NUMBER: SB 45

BILL TITLE: "An Act relating to out-of-state solicitation for state contracts and state employees."

Normal solicitation for state contracts involves using the AS 36.30.050 contractor lists or advertising in newspapers of general circulation in Alaska. Agencies advertise outside or seek outside firms when sources are insufficient through the above methods.

In the first solicitation proposed in the bill, firms located out-of-state who are on the vendor lists or who read an Alaska newspaper or some how find out about an ITB or RFP could compete. We would be deprived of the opportunity of seeking competition from firms who might be best qualified to perform. In circumstances where we had no response to the first ITB or RFP we could then seek outside competition at the expense of the time involved in reissuing the procurement.

IMPACTS

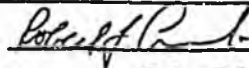
This bill would permit out-of-state advertisement or solicitation for an Invitation to Bid out-of-state only after the Chief Procurement Officer makes a determination that the bid was solicited in the state and no responsive bids were received. This limitation on the power to contract seems to go counter to the purpose of the procurement code. The code establishes competitive bidding as the preferred procurement method. Competition has always been considered good for the state budget. The limitation of the area of solicitation may reduce the amount of competition for state contracts.

For competitive sealed proposals it generally takes an agency two to four months to conduct a formal RFP solicitation and evaluation, which involves a considerable expenditure of staff time and state resources. The doubling of effort in a second solicitation out-of-state will reduce staff productivity and increase delays in providing public service.

This bill would have a serious detrimental effect on the activities of the Department of Revenue relating to the investment of state funds and the collection of revenue owed to the state. The Treasury Division and the Permanent Fund Corporation expend significant amounts of money annually on professional services contracts relating to investment of state dollars. Because Alaska is a young and small state, the financial investment expertise to perform these functions

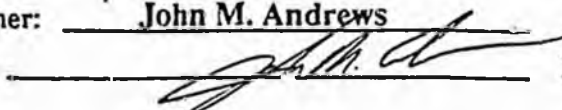
APPROVED:

Director: Robert J. Link

Signature: 

Date: 1/30/89

Commissioner: John M. Andrews

Signature: 

Date: 2/1/89

For further information call Dean Gottehrer at 465-2200

Admin Position Paper

is unavailable in-state. Similarly, the expertise to conduct research relating to valuation of oil, productivity of oil fields and other functions related to the departments mandate to collect oil and gas revenues is not available in Alaska. The Department of Revenue advises us that this bill would create a delay of approximately six months in issuing contracts. Along with counterproductive delays and increased costs to the state it would contribute to inefficiencies in management of our revenues at times we can afford it the least.

This bill also impacts sole source, limited competition, emergency, and small procurements with the same mandatory in-state solicitation requirements prior to soliciting out-of-state. For these four categories of procurements this bill would create delays, require numerous redundant determinations, and possibly prevent some required purchases.

State offices located in foreign countries, other states, and our nation's capital would be required to solicit in Alaska and obtain a determination from the Chief Procurement Officer before any purchases could be made from an out-of-state source.

Out-of-state travel related purchases would be restricted. A traveling state official would be unable to make alternate travel arrangements with out-of-state carriers, obtain lodging, pay taxi fare, or purchase supplies or services needed for state business while traveling.

Sole source purchases from out-of-state vendors permitted under AS 36.30.300 would require not only a determination by the Chief Procurement Officer that only one source existed, but would require a redundant determination that no in-state sources existed after soliciting, or advertising in-state. If clear and convincing evidence supports a determination that only one source exists, the advertisement in-state causes unnecessary delay and serves no purpose.

Small procurements of pharmaceuticals and drug purchases made directly with manufacturing laboratories by the Department of Health and Social Services would be impacted. While some of these purchases may be made from the single in-state wholesaler, clinical and governmental price discounts often given by the laboratories would be unavailable.

If an emergency procurement under AS 36.30.310 was necessary from an out-of-state source, it could not be made until a solicitation in-state was conducted and a determination that the item or service was not available from a local source was completed. This delay and additional determination defeats

the flexibility which we believe the Procurement Code intended for emergency purchases under AS 36.30.310.

We have been advised by the Department of Law that this bill may improperly include two distinct subjects for legislation in violation art. II, sec. 13 of the Alaska Constitution. The bill concerns public contracts and public employment. The fact that each subject is being amended concerning in-state solicitation of goods and services may not save it from challenge. The Alaska Supreme Court has been very liberal in applying the single subject rule. It is possible that this bill would be found to minimally meet the standard of interrelationship.

POSITION

The Department of Administration in general is supportive of the apparent intent of the bill to encourage buying from Alaska vendors. We do not support the bill because it reduces competition when it is needed most. It would impose unacceptable delays and costs on all categories of state purchases. We do not believe it would benefit Alaska vendors. If the bill were to pass, amendments such as the following would be needed to minimize unacceptable impacts:

Page 1, Section 2, beginning at line 20 amend to read:

Sec. 36.30.875. OUT-OF-STATE SOLICITATION OF CONTRACTS.
(a) Except as necessary to contact the persons on the contractor lists established under AS 36.30.350, an agency may not solicit outside of the state for a contract unless :(1) the chief procurement officer, or, for construction contracts or procurements for the state equipment fleet, the commissioner of transportation and public facilities determines in writing that to solicit out-of-state is in the public interest or necessary to provide reasonable competition; or (2) the agency has solicited within the state and that ...

Page 2, line 5, amend to read:

...if the procurement is made under AS [36.30.300], 36.30.305, [36.30.310], or 36.30.320.

Page 2, line 7, amend to read:

"(b) This section does not apply to :(1) contracts for

professional services to be performed in an area outside of the state and requiring knowledge of the customs, procedures, rules, or laws of the area[.]; (2) procurements made under AS 36.30.300, 36.30.310; (3) procurements by agency personnel not located in the state.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Dept. of Administration
 Title: An Act relating to out-of-state BRU: General Services & Supply
solicitation for state contracts & state employees
 Sponsor: Pearce Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

General Services and Supply assumes a modest impact for the division when issuing competitive sealed bids. Presently we either advertise all competitive sealed bid procurements in-state or solicit using the contractors lists established under AS 36.30.050. For competitive sealed bids we would not anticipate many second out-of-state solicitations to be necessary. cont.

Prepared by: Robert J. Link, Director Phone: 465-2250
 Division: General Services & Supply Date: 11/9/89

Approved by Commissioner: John M. Andrews Date: 7/1/89
 Agency: Department of Administration

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 45

Agency purchases of small procurements, sole source procurements, competitive sealed proposals, limited competition procurements, and emergency procurements will require review and written determination by the Chief Procurement Officer. While there is some impact, we expect agencies would submit complete written determinations which would be reviewed and approved or disapproved by the Chief Procurement Officer.

This fiscal note analysis only applies to the Division of General Services and Supply and does not represent fiscal impacts to other divisions within the Department or other agencies.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act relating to out-of-state solicitation for State contracts and **
Sponsor: Pearce, Fischer, Rodey
Requestor: Pearce

Agency Affected: Department of Administration
BRU: Division of Personnel

Components: Centralized Administrative Services

**State employees.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

This bill would not have a fiscal impact on the Division of Personnel.

Prepared By: Daniel K. Otto
Division: Division of Personnel

Phone: 465-4430
Date: 1-20-89

Approved by Commissioner: _____
Agency: Department of Administration

Date: 2/1/89

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

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to out-of-state Solicitation for state contracts..."
 Sponsor: Sen. Pearse
 Requestor: Governor's Office/OMB

Agency Affected: SB 45
 BRU: Legal Services, Prosecution, Consumer Protection, Oil & Gas Spc. Projects
 Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: January 19, 1989
Richard I. Pegues / For
 Approved by Commissioner: Grace Berg Schable, Attorney Gen. Date: January 19, 1989
 Agency: Department of Law

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 45

This bill amends the State Procurement Code (AS 36.30) and the State Personnel Act (AS 39.25) in a manner that will substantially limit the ability of state agencies to solicit out-of-state for contracts or employees. Generally, this bill has addressed most of the concerns previously expressed by this department over similar legislation introduced in the House last year (HB 450); however, there are still some aspects of this bill that could cause significant problems in the operation of state government.

Section 2. of the bill excludes "...contracts for professional services to be performed in an area outside of the state and requiring knowledge of the customs, procedures, rules, or laws of the area." Although this exclusion addresses services to be performed outside of Alaska; it does not address the equally important issue of obtaining services that require specialized expertise or knowledge, but are to be performed, in whole or in part, within Alaska. Frequently, this department must employ legal counsel to advise the state in highly specialized areas of law (i.e. bond counsel, investment counsel, mineral/oil & gas law, patent & copyright law, admiralty law, etc.). Many times the necessary expertise is not available within the state and, given the relative small size of Alaska's legal community, it is usually known well in advance whether or not such expertise can be found within the Alaska Bar.

In those instances where formalized procurement methods might be used to solicit for such specialized legal services, the department would have to perform two solicitations in order to meet the requirements of this act. It generally takes about three months to conduct a formal RFP solicitation, which involves a considerable expenditure of staff and state resources. The doubling of the effort, as would be required by the bill, will greatly diminish already strained resources. Also, in those instances where there might be just one or possibly two individuals or firms within the state that have the requisite expertise, the act would effectively limit the range of expertise available to the state and remove any incentive on the part of the prospective contractor to provide such services on a competitive basis. Given the potential impact on the state's fiscal situation of many of the cases being handled by the department, the Attorney General must have the latitude to obtain the best qualified legal counsel the state can reasonably afford.

In addition, it is anticipated that many other service and commodity procurements would be affected by the amendment and could adversely impact the operation of state government. An example in this department would have been the procurement of the PALLAS software program. This mainframe program is the heart of the department's litigation support system, an essential tool in both our royalty oil and oil & gas production/income tax cases. At the time this procurement was made, there was only one in-state vendor that possessed a program that could be used for litigation support purposes. However, this was an early generation computer program that, because of its inefficiencies in managing a litigation support data base, made it the least suitable of

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 45

the six programs that were considered. Had this procurement been made under the requirements of this act, it is questionable whether or not the department could have even looked at any other systems. If enacted in its present form, it is quite likely that most future mainframe system applications would have to be purchased from just a few in-state vendors (that just happen to be some of the world's largest computer companies).

In view of the examples cited above, it is important that adequate competition not be unduly limited. The following revised language is therefore suggested:

Sec. 36.30.875. OUT-OF-STATE SOLICITATION OF CONTRACTS. (a) Except as necessary to contact persons on the contractors lists established under AS 36.30.050, an agency may not solicit outside of the state for a contract unless: (1) the chief procurement officer, or, for construction contracts or procurements for the state equipment fleet, the commissioner of transportation and public facilities determines in writing that out-of-state solicitation is in the public interest or necessary in order to provide reasonable competition; or (2) the agency has solicited within the state and...

It should also be noted that the inclusion of the Code's small procurement provisions (AS 36.30.320) within this Act will cause many of the same problems previously related in our analysis of Senate Bill No. 99. These would include the difficulties faced by employees trying to purchase supplies, services, professional services, or construction while traveling outside the state on official business or while permanently assigned to out-of-state offices. In view of these and other problems that would occur, it is recommended that the reference to AS 36.30.320 be deleted.

With regard to section 3. of the bill, most of the department's previous concerns appear to have been addressed, assuming that the department may utilize out-of-state solicitation to meet its affirmative action objectives if a written finding is obtained under AS 39.25.165(b)(1).

The Department of Law cannot determine a fiscal impact at this time. To the extent that multiple solicitations may be required, already thin administrative resources will simply have to be stretched further, and needed procurements will be significantly delayed. To the extent that the state is prevented from procuring expertise that is adequate to its needs, and at a competitive price, the long-term cost to the state could be considerable.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 45
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: 19-Jan-89 Agency Affected: Natural Resources
 Title: An Act relating to out-of-state
solicitation for state contracts and state employees. BRU: All
 Sponsor: Pearce, Fischer and Rodey Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Sharon Barton Phone: 465-2406
 Division: Management Date: 19-Jan-89

Approved by Commissioner: Lennie Gorsuch Date: 19-Jan-89
 Agency: Department of Natural Resources

Distribution (by preparer) :

Legislative Finance
 Legislative Sponsor
 Requestor

Office of Management and Budget
 Impacted Agency(ies)

DNR FN

FISCAL NOTE

REQUEST:

Revision Dates: _____
Title: "An Act relating to out-of-state solicitation."
Sponsor: Sen Pearce, Fischer & Rodey
Requestor: _____

Agency Affected: Department of Corrections
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

This legislation would not affect the Department.

Susan E. Knighton

Prepared by: Susan E. Knighton, Director
Division: Administrative Services

Phone: 465-3376
Date: 1-19-89

Approved by Commissioner: *Donna H. Hensley-Barnett*
Agency: Department of Corrections

Date: 1-19-89

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

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 45
PUBLISH DATE: 1/9/89

REQUEST: **FISCAL NOTE**

Revision Date:
Title: An act relating to out-of-state solicitation for state contracts
and state employees
Sponsor: Pearce, Fischer and Rodey
Requestor:

Agency Affected: DOT&PF
BRU: Design & Construction
Maintenance & Operations
Administration
Components:

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

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

FUNDING: (THOUSANDS OF DOLLARS)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

For all contracts and proposals on State funded projects it has been and is the policy of this Department to advertise only within the State of Alaska.

Requests for solicitation outside the state to fill a position within state service are processed and approved through the Department of Administration

Prepared by: Loren Rasmussen
Division: Engineering & Operations Standards

Phone: 465-2960
Date: 02/21/89

Approved by Commissioner: Mark S. Hickey
Agency: Department of Transportation and Public Facilities

Date: 02/21/89

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



Department of Transportation & Public Facilities

POSITION PAPER

BILL NO: SB 45

APPROVED:

A handwritten signature in black ink, appearing to read "M. K. S. H. J.", written over the "APPROVED:" label.

TITLE: An Act relating to out-of-state solicitation
for state contracts and state employees.

DATE: February 21, 1989

The Department does not oppose nor support this bill.

Sec. 1 Legislative finding.

Sec. 2 Under this section of the bill the state may not solicit outside of the state for a contract, unless in writing, the commissioner determines that an agency has solicited within the state and has not received a responsive bidder.

This section of the bill will not have a large impact on the Department because it has been the Department's policy that all state funded construction projects will be advertised only within the State of Alaska.

It should be noted that on federally assisted projects by federal regulations 23 CFR § 635.107(e) the bidding procedures may not discriminate against qualified bidders regardless of state boundaries.

Sec. 3 Under this section of the bill an agency may not solicit outside the state for an individual to fill a position as a state employee unless the agency has actual solicits for an entire six-months within the state.

The six-month requirement of this section of the bill seems excessive to the Department. A critical position may remain unfilled for a long period of time.

For further information call Catherine A. McHugh at 465-3900

DOT - PF FN

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION : SB 45
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
 Title: "An Act relating to out-of-state solicitation for state contracts..." BRU: Administrative Services
 Sponsor: Pearce, Fischer, & Rodey Components: Management Services
 Requestor: Senate Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Frank Spargo Phone: 465-2720
 Division: Administrative Services Date: 1/19/89
 Approved by Commissioner: Jim Sampson Date: 1/19/89
 Agency: Department of Labor

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

Labor FN

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Econ. Dev.
 Title: An act relating to out-of-state BRU: _____
solicitation for state contracts and state employees
 Sponsor: Pearce, Fischer, Rodey Components: _____
 Requestor: (S) Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Kathy Marshall, Director Phone: 465-2505
 Division: Administrative Services Date: 1/17/89
 Approved by Commissioner: [Signature] Date: 1-18-1989
 Agency: Commerce and Economic Development

Distribution (by preparer):

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

mm0601 t
011789a

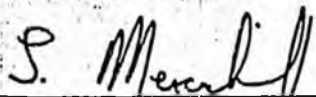
Commerce FN

Senate Bill 45: "An Act relating to out-of-state solicitation for state contractors and state employees."

This bill requires state agencies to solicit and exhaust in-state resources prior to soliciting out-of-state for state contracts and state employees.

The department does not have a position on this legislation. A negative impact of the bill would be to delay solicitation in those instances where it may be known, in advance, that the contractor or prospective state employee is available only from out of state. The department concurs, however, that this would be exceptional, and that most resources are available in-state.

Currently, the Division of Personnel conducts an intensive 30-day recruitment campaign before evaluating out-of-state recruitment. A six month in-state program is unfeasible, not cost effective, and could severely impact the agency experiencing the vacancy. Generally, the type of positions which are open to out-of-state recruitment are highly technical in nature. Out-of-state approval is requested only when Alaska cannot provide qualified in-state applicants.



Larry Mercurieff, Commissioner

1-18-1989

Date

S B

51

Bill No CSSB 51 (HESS)

Date: February 23, 1989

Title: "An Act extending the time period for a person to become a certified workers' compensation rehabilitation specialist; and providing for an effective date."


Contact:  J. L. McClintock
465-2790

One of the major concerns addressed by the Labor/Management Task Force in last year's workers' compensation legislation was to assure that quality vocational rehabilitation services be provided by skilled professionals to assist Alaska's injured workers in their return to the work place, thereby reducing liability for long-term disability for Alaska employers. To accomplish this, specific standards for professional vocational certification were included in the 1988 workers' compensation bill. These standards require that a person be a certified insurance rehabilitation specialist (CIRS) or a certified rehabilitation counselor (CRC), or the equivalent in jurisdictions without CIRS or CRC certification standards, in order to be placed on the Workers' Compensation Board's list of rehabilitation specialists.

The 1988 legislation provided a one-year period, until June 30, 1989, for persons who had been providing rehabilitation services to obtain the required certification. CSSB 51 would extend the time period for obtaining certification by an additional three years. At this time, the Department is aware of four individuals who will not be able to meet the certification requirements by the June 30, 1989 deadline.

The Department has no objection to this extension which will provide those who have been providing rehabilitation services the additional time needed to meet the certification requirements.

APPROVED:


Jim Sampson, Commissioner
Department of Labor

POSITION PAPER/Department of Labor