

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8135 HOUSE STATE AFFAIRS

700

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSSSHB 249

Revision Date: _____
 Title: An Act reestablishing the Board of Electrical Examiners and extending the termination date of the Board of Mechanical Examiners
 Sponsor: Representative G. Davis
 Requestor: House Labor & Commerce

Department Affected: Commerce and Economic Development
 BRU: Occupational Licensing
 Component: Operations
 COMPONENT SERIAL NO. 1844

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	51.4	51.4	51.4	51.4	51.4	51.4
TRAVEL	12.6	12.6	12.6	12.6	12.6	12.6
CONTRACTUAL	12.0	12.0	12.0	12.0	12.0	12.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	77.0	77.0	77.0	77.0	77.0	77.0

CAPITAL						
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REVENUE FUND SOURCE:	77.0	77.0	77.0	77.0	77.0	77.0
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	77.0	77.0	77.0	77.0	77.0	77.0
1006 GF/MHTIA						
OTHER						
TOTAL	77.0	77.0	77.0	77.0	77.0	77.0

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME	(1)	(1)	(1)	(1)	(1)	(1)
TEMPORARY						

Estimate of current year (FY 93) impact: None

ANALYSIS: (Attach a separate page if necessary.)
 SEE ATTACHED

Prepared by: Karl Luck, Director
 Division: Occupational Licensing

Phone: 465-2538
 Date: 4/20/93

Approved by Commissioner: Paul Fuhs
 Agency: Commerce and Economic Development

Date: 4/20/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSSSHB 249

ANALYSIS: (continued)

CS for Sponsor Substitute for HB 249 recreates the Board of Electrical Examiners which was sunset in 1991. The following cost increases are for Electrical Administrators (EA) licenses and regulation projects associated with the change to statute, plus division cost for administration of board. A licensing examiner position (PCN 2076) is reclassified from part-time to full-time position since previous EA licensing examiner position was reassigned to cover four additional licensing functions assigned in SLA 92 with no position increase. Mechanical Administrator (MA) licensing function is currently budgeted for in FY 94; no additional funds are required. All funds are program receipts from electrical administrator fees. No general funds are required.

Personal Services

PCN Loan 2076 reclassified part-time - full-time	\$19.4
Administrative costs	<u>32.0</u>

Subtotal	\$51.4
----------	--------

Travel

(Board) 4 meetings @ \$2.8 per	11.2
Out-of-state to professional	
(national) meeting	<u>1.4</u>

Subtotal	12.6
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Contractual Services

Exams - 4 per year @ \$2.5 ea.	10.0
Printing	1.5
Mail	<u>.5</u>

Subtotal	12.0
----------	------

Supplies

Subtotal	1.0
	<u>1.0</u>

TOTAL	<u>\$77.0</u>
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Revenue 616 licensees @ \$250 ea. divided by 2
(biennial period)

77.0



TELECOPY COVER SHEET

Fairbanks Legislative Information Office

Office - (907) 452-4448

Fax - (907) 456-3346

TO: House State Affairs FAX: _____ PHONE: _____

FROM: Flet LIO PHONE: _____

INSTRUCTIONS: Please forward to Cmte. - written testimony on HB 249 teleconferenced 3-20-93

RECEIVED: Date _____ Time _____

SENT: Date 4-20-93 Time _____

DISPOSAL OF ORIGINAL: Discard _____ Hold for Pickup _____

NUMBER OF PAGES: 16 (Not counting cover sheet)

SENT BY: Flet



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

committed on H.B. - 249 , dated 4-19-93 bill/subject

HAVING BEEN A CONTRACTOR WITH AN ELECTRICAL LICENSE FOR OVER 35 YRS LIC. # 69, I OBJECT TO THE RESTRICTION THAT THE ADMINISTRATION MUST INSPECT THE JOB. I WOULD LIKE TO SEE OR HIS REPRESENTATIVE WHO IS QUALIFIED IN THE ELECTRICAL INDUSTRY. IN MY CASE IT WOULD REQUIRE ME TO SPEND GOOD MONTHS IN ALASKA WHERE MY HEALTH WON'T ALLOW.

AN ENGINEER HAS NOT WALKED IN THE ELECTRICIAN'S SHOES - HE MUST BE REQUIRED TO TAKE A TEST, ONE ELECTRICAL ENGINEER WHOM I HIGHLY RESPECT ASKED ME A FEW YEARS AGO HOW TO HOOK UP A THREE WAY SWITCH. THEY ARE NOT QUALIFIED BY JUST THEIR LICENSE. THANK YOU.

Signed: Donald C. Sauer
Testifier

SAUER ELECTRIC
Representing (Optional)
Box 83030 FBKS AK 99708
Address
456 - 7470
Phone No.



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

committee on HB 249, dated 4/20/93
bill/subject

I do not support the watered down version / Work Draft. of HB 249. The penalty for a violation is to weak. Is this work draft stating that the only person eligible to have an electrical administrators licence would be a registered professional engineer? Rep. Vezzy you made the comment during tele conference that violations of the E.A licencing would be committing an "economic crime." How can you state the death of a human being because of an electrical fire, caused by code violations, be put in the area of economics

Signed: Jay Quakenbush Jay Quakenbush
Testifier

Representing (Optional)
P.O. Box 82391 Fairbanks AK 99708
Address
479-5210
Phone No.

April 16, 1993

Mr. Al Vezy
House of Representatives
State of Alaska
Juneau, Alaska 99801-1182

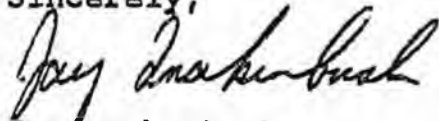
Dear Representative Vezy:

All Alaskans deserve the right to the highest level of safety when it comes to the installation of electrical wiring and mechanical systems.

HB249 sets reasonable standards that will help assure the public a properly installed electrical and mechanical system.

I would encourage you to have a statewide teleconference before you bring it to a vote on the floor.

Sincerely,



Jay Quakenbush
P.O. Box 82391
Fairbanks, Alaska 99708

The wo

Al Vezey
House of Representatives
State Capitol
Juneau, Ak 99801-1182

Dear Mr. Vezey,

I would like to implore your support of HB 249. We in the electrical industry harbor grave concerns for the safety of the public when electrical and mechanical systems can be installed by workman with limited or no background in the industry. Public safety should remain a high priority to the State of Alaska. HB 249 insures that anyone installing an electrical or mechanical system would be trained and licensed in their particular field.

I would also encourage you to have a tele-conference here in Fairbanks before you bring it to a vote on the floor.

Best Regards



Pete Blair



Alaska State Legislature

Please enter into the record my testimony to the _____

committee name

committee on HB 249 , dated 4/20/93
bill/subject

THIS BILL IS ONLY A SELF GAIN
FOR MR VEZLY. IT WILL EXEMPT HIS
COMPANY FROM STATE INSPECTION.
IT WILL ALLOW HIM TO PERFORM MECHANICAL
& ELECTRICAL WORK WITHOUT CONTINUING EDUCATION.

Signed: [Signature] ROLANDO M. MIRANDA
Testifier

Representing (Optional)

P.O. BOX 56031 NORTH POLE AK. 99705

Address

(907) 488 2029

Phone No.



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

committee on HB 249 R-0 , dated 4-20-93
bill/subject

While I agree with the need for licensing electrical and mechanical administrators, I take great umbrage to sections 5 & 10, which give Administrators licenses to Professional Engineers without testing. conceivably a civil engineer could act as an electrical administrator without any knowlege of electricity. IT is also my understanding that Mr. Vezey would benefit by this bill by allowing him to be an EA. Could Mr. Vezey pass the EA Exam if it were required he take it? Why doesn't he have an Ed hicense? (Conflict of Interest)

Signed: Steve Wenzelowski
Testifier

Representing (Optional)
Box 60873 Fairbanks, AK. 99706
Address
451-8319
Phone No.



Please enter into the record my testimony to the STATE HOUSE AFFAIRS COMM.
 committee name
SB 249
 committee on R-LSO 781/0 dated 4-20-93
 bill/subject

I OBJECT TO SEC. 5 IN THE SUBSTITUTE BILL EXCLUDING PROFESSIONAL ENGINEER FROM THE REQUIREMENT OF EA EXAM.

I OBJECT TO MR VEZEY FROM EXCLUDING HIMSELF FROM THE COMPETENCY TESTING AND SETTING HIMSELF UP AS AN EA. I BELIEVE THIS IS A CONFLICT OF INTEREST AND I HAVE A QUESTION AS TO THE ETHICS OF THIS ENTIRE SUBSTITUTION.

THEREFORE I AM AGAINST THIS SUBSTITUTION AND FEEL THE ETHICS COMMITTEE DETERMINE MR VEZEY'S MOTIVES BEHIND THIS BILL. IT WOULD APPEAR THAT MR VEZEY IS REPRESENTING HIMSELF, AND HAS LITTLE OR NO CONCERN FOR THE PUBLIC.

Signed: Richard M. Mink
 Testifier

Representing (Optional)
PO BOX 84530 FBKS 99708
 Address
907-479-8899
 Phone No.



Please enter into the record my testimony to the STATE HOUSE NATURAL RESOURCES COMMITTEE
 AS SUBSTITUTE FOR committee name
 committee on HOUSE BILL 249 (STA) dated 4/19/93
 bill/subject

I would object to (SUB) HB249 in its ENTIRETY. I object that PROFESSIONAL ENGINEERS ARE TO BECOME LICENSED EA & MA'S WITHOUT ANY EXAM.

I object that as of DEC '93 THE (SUB) BILL WILL ELIMINATE ALL PRESENT LICENSED EA & MA AS THEY NOW EXIST.

I object to the fact that by a stroke of the pen our VEZED who is CHAIRMAN AND A LICENSED PROFESSIONAL CIVIL ENGINEER CREATES HIMSELF A LICENSED EA & MA WITHOUT EXAM. SOUND LIKE A CONFLICT OF INTEREST. ??

Signed: ANDREW I. MASTAS

Testifier

28 YEARS IN THE ELEC. INDUSTRY & CURRENT EA LICENSE

Representing (Optional)

2705 BIRD DR. FSR, AK 99709

Address

(907) 479-4795

Phone No.



Please enter into the record my testimony to the STATE AFFAIRS COMMITTEE
 committee name
 committee on NB 249, dated 4/20/93
 bill/subject

I STRONGLY FAVOR HB 249

WITH THESE EXCEPTIONS

① SEC 5 - PROFESSIONAL ENGINEERS SHOULD HAVE TO TEST!

② SEC 8 - ENGINEERS SHOULD NOT BE ~~EXEMPT~~ FROM INSPECTIONS!

I ALSO BELIEVE WE WOULD BE MUCH BETTER SERVED WITH LICENSING UNDER DEPT OF LABOR

THANK YOU
 Dan Elbert

Signed: DAN ELBERT

Testifier

ELBERT INC ELEC CONTRACTOR

Representing (Optional)

183 CONCORD FBKS

Address

452-1914

Phone No.



Please enter into the record my testimony to the State Affairs
 committee name
 committee on HB 249 R-0 , dated 4/19/93
 bill/subject

I would like to testify against this bill because it appears to be self serving to Rep. Vezev. He wants an EA the easy way. Forget safety for Alaskans. He has done Electrical work in violation of our States EA. Law.

Some of the scariest work I have seen was done by Electrical Eng. you can imagine what a civil eng would do

Rep Vezev ~~ment~~ mentioned "ethical judgment" — please spare us.

Further I have \$100 that says Vezev is a one timer and thats no April Fool joke.

Signed: DAN McLEAN

Testifier

Self, Family & Friends

Representing (Optional)

210 Well Fblcs 99701

Address

452-1045

Phone No.



Please enter into the record my testimony to the STATE AFFAIRS
 committee name
 committee on 249 REV. 0, dated 4-19-93
 bill/subject

I DISAGREE WITH SECTION 5 LINE 8
 BECAUSE A PROFESSIONAL ENGINEER
 IS TOO BROAD. I DON'T THINK EVEN
 A ELECTRICAL ENGINEER HAS THE
 EXPERIENCE IN THE FIELD TO BE A
 ADMINISTRATOR. (LACK OF EXPERIENCE)
 YOU CAN'T LEARN EVERYTHING FROM A
 BOOK.

Signed: Tom McLean
 Testifier
MCLEAN ELECTRIC INC.
 Representing (Optional)
P.O. B. 60747
 Address
479-2533
 Phone No.



Please enter into the record my testimony to the HB-249 SUB-
 committee name
 committee on EA/MA, dated 4/20/93
 bill/subject

1. AS WRITEN ANY PE CAN BE AN EA & MA AND NOT BE AN ELECTRICAL ENGINEER.
2. SEE PR. C PE ARE EXEMPT FROM ELECTRICAL INSPECTIONS I OBJECT AND SUGGEST THERE ARE CONFLICTS OF INTERESS OF THE CHAIRMAN.
3. SUGGEST ORGINAL HB-249 BE ADOPTED.
4. WHAT WILL HAPPEN AFTER DEC. 1993 TO RALS.

Signed: CHARLES E. METZ

Testifier T. H. E. J.

Representing (Optional) PO. BOX 83487 FAIR.

Address 479-5853

Phone No.



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

committee on CS - HB 249 , dated 4/20/93
bill/subject

1. Object to ANY P.E. to Act
AS AN administrator either MA/ or EA
This could be any P.E., structural, Civil, etc.
Makes no sense!
2. Object to P.E. (Sec. 8) Being
exempted from Inspections.
3. What will happen to the EA
license after Dec. 1993 ?

Signed: Odell J. Brown
 Testifier
MECHANICAL Administrator
 Representing (Optional)
P.O. Box 70397 FFA
 Address
474-2152
 Phone No.



APL 20 '93 10:42 LIO - FAIRBANKS ✓ 465-3258

Alaska State Legislature

465-2294

Please enter into the record my testimony to the _____
committee name

committee on _____, dated _____
bill/subject

Signed:

Rud M. L... *McL...*

Testifier

ALASKA

Representing (Optional)

Address

4179-2538

Phone No.

CAN'T AFFORD E.A. EXIMERS
OR ~~EX~~ EXAMINING BOARD
WHY NOT?

FROM:
RICK
McLean

- ① TOO MANY TESTS?
- A. MAKES QUALIFICATIONS HARDER
 - B. MAKES TEST HARDER
 - C. INCREASES PRICE OF TEST
 - D. INCREASES YEARLY RENEWAL
 - E. BONDS LICENSE

- ② HOW MANY TIMES ANNUALLY BOARD MEET.
MORE THAN CAN AFFORD.

- A. LESS MEETINGS (BECAUSE LESS TESTS)
- B. HOW MUCH MEMBERS MAKE?
- C. MEMBER PRIVILEGES (EXPENSES ONLY)

- ③ WHO WRITES TEST? GRADES TEST?

- A. E.A. HOLDERS WRITES TEST (FOR PR)
- B. BOARD GRADES (MINIMUM GRADERS)
- C. COST OF TEST (TO BE PRINTED, GRADED)
- D. TOO MANY DUMB QUESTIONS.

IF MORE THERE: LESS COST (LESS QUESTIONS)

NO MULTIPLE CHOICES

SHOW WORK

SHOW SOURCE IN CODE BOOK

④

MONEY COLLECTED FROM EA. FUNDS USED FOR POLICING BOARD & RULES

A. SEPARATE FROM STATE ACCOUNT

CAN'T AFFORD BOARD

FROM
Dick
McLean

① ANYONE W/ FITNESS CARD DOES WORK

- A. NO ^{GARANTEE} ~~GARRANTS~~ OF WORK
- B. UNDER TABLE WORK (NO PAID)
- C. STATES LIABLE FOR LAWSUITS
- D. MOST DON'T HAVE INSURANCE
- E. UNQUALIFIED PERSONAL

② OUT OF STATE CONTRACTORS

- A. GET HELP EASILY (A.C.A.O)
- B. TAKE MONEY OUT OF STATE
- C. BRING PERSONAL HELP FROM OUTSIDE (NO INCOM)

③ P.F. TEST TOO EASY

- A. EVERYONE TAKE E.A. INSTEAD OF P.F.
- B. P.F. TEST NOT HARD ENOUGH
(SHOW WORK, SECTION IN CODES)

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SSHB 249

Revision Date: _____ Dept. Affected: Commerce & Economic Development
 Title: An Act relating to persons whose BRU: Occupational Licensing
occupations involve electrical or mechanical;.... Component: Operations
 Sponsor: Rep. G. Davis
 Requestor: House Labor & Commerce COMPONENT SERIAL NO. 1844

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL	(3.9)					
CONTRACTUAL	(2.0)					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(5.9)	.0	.0	.0	.0	.0
CAPITAL						
REVENUE FUND SOURCE:	(67.0)	.0	.0	.0	.0	.0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	(5.9)					
1006 GF/MHTIA						
Other						
TOTAL	(5.9)	.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

Estimate of current year (FY 93) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)
 SSHB 249 repeals AS 08.40 pertaining to the licensing of electrical and mechanical administrators, and creates certification for these professions under the Certificate of Fitness program in the Department of Labor. Funding of \$5.9 GF/PR was authorized with creation of licensing for mechanical administrators. This fiscal note addresses the reduction of that authorization. Presently, there is no licensing program in existence for Electrical Administrators.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: 4/15/93

Approved by Commissioner: Paul Fuhs Date: 4/16/93
 Agency: Commerce & Economic Development

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO : SSHB 249

Revision Date: _____

Department Affected: Labor

Title: Electrical/Mechanical Tradespersons

BRU: Labor Standards & Safety

Component: Mechanical Inspection

Sponsor: Representative G. Davis

Requestor: House State Affairs

COMPONENT SERIAL NO. 346

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	32.7	32.7	32.7	32.7	32.7	32.7
TRAVEL	10.0	10.0	10.0	10.0	10.0	10.0
CONTRACTUAL	39.6	29.0	29.0	29.0	29.0	29.0
SUPPLIES	7.6	7.6	7.6	7.6	7.6	7.6
EQUIPMENT	3.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	93.4	79.3	79.3	79.3	79.3	79.3

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

REVENUE	165.0	165.0	165.0	165.0	165.0	165.0
FUND SOURCE:	PR #1005	PR #1005	PR #1005	PR #1005	PR #1005	PR #1005

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt	93.4	79.3	79.3	79.3	79.3	79.3
1006 GF/MHTIA						
Other						
TOTAL	93.4	79.3	79.3	79.3	79.3	79.3

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

(see attached)

Prepared by: Donald G. Study, CSP, Director Phone: 465-6003
 Division: Labor Standards & Safety Date: 4/19/93

Approved by Commissioner: Charles W. Mahlen Date: 4/19/93
 Agency: Department of Labor

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Fiscal Note Analysis for

"An Act relating to... transfer of Electrical and Mechanical Administrators
licensing and enforcement to the Department of Labor..."

This bill would place responsibility with the Mechanical Inspection component of the Department of Labor for the licensing and enforcement functions of the Electrical Examiners Board which sunsetted June 30, 1992 and of the Mechanical Examiners Board which is due to sunset June 30, 1993.

Certificates for electrical and mechanical administrators would be issued and enforced under the department's Certificates of Fitness program. A full time position would be established to provide clerical and administrative support to the program.

A Clerk Typist III position would be established to provide clerical support necessary to the operation of the program. Duties would include: implementation of a computerized photo-identification licensing system to issue licenses and collect & maintain records of fees; issue and receive certificate of fitness application forms; assist with testing applicants; and answer routine questions from the public.

Travel funds would be required to allow investigators to travel to work sites to investigate alleged violations. Also included is funding for a Hearing Officer to travel between Juneau, Anchorage, and Fairbanks to conduct hearings and appeals.

Additional contractual and commodity expenses would also be incurred by the position for phones, space, vehicle lease, office supplies, and other normal position costs. In addition funds for program costs such as mass mailings to licensees, forms production and mailing, third party testing services, and legal support have been included. Also, one time contractual funding for computer programming to integrate the licensing functions into the departments licensing system is also required.

Equipment needed would be a personal computer, telephone, desk, and chair.

Revenue from testing and licensing is expected to fund these program costs. The revenue estimates are:

	<u>per year</u>
Electrical Administrators - 600 licenses x \$250 biennial fee =	- \$75,000
Mechanical Administrators - 600 licenses x \$250.00 biennial fee =	\$75,000
Examination - 150 applications x 2 categories x \$50.00 fee =	\$15,000

Total estimated revenue = \$165,000.00

An effective date of July 1, 1993 is assumed.

Position Title Clerk Typist III		No. of Positions 1	Range/Step 8 A	Barg. Unit GGU
Time Status Full Time	Staff Months 12	Location Anchorage		Election District 7
Type of Expenditure		Amount		Justification. This position will provide clerical and administrative support necessary to the operation of the program. Duties will include: collect and maintain records of fees; issue and receive application forms; issuing licenses; and answer routine questions from the public. Contractual costs include postage, phone, space rent, and other per employee costs. Commodities cover normal office supplies for this position. Equipment is for a personal computer, desk and chair and is a one time cost.
Salary	\$21,996			
Benefits	10,679			
Premium Pay				
Other				
Total Personal Services		\$32,675		
Travel				
Contractual		2,000		
Commodities		500		
Equipment		3,500		
Other				
Total Cost		\$38,675		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004			
I-A Receipts	1007			
OF Program Receipts	1005	38,675		
Other				

**Request For
New Position**

Agency Labor
 BRU Labor Standards & Safety
 Component Mechanical Inspection

Page 3 of 3
 Revised Date

FY 94

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SSHB 249

Revision Date: _____ Dept. Affected: Commerce & Economic Development
 Title: An Act relating to persons whose BRU: Occupational Licensing
occupations involve electrical or mechanical;.... Component: Operations
 Sponsor: Rep. G. Davis
 Requestor: House Labor & Commerce COMPONENT SERIAL NO. 1844

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL	(3.9)					
CONTRACTUAL	(2.0)					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(5.9)	.0	.0	.0	.0	.0
- CAPITAL						
REVENUE FUND SOURCE:	(67.0)	.0	.0	.0	.0	.0

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	(5.9)					
1006 GF/MHTIA						
Other						
TOTAL	(5.9)	.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

Estimate of current year (FY 93) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)
 SSHB 249 repeals AS 08.40 pertaining to the licensing of electrical and mechanical administrators, and creates certification for these professions under the Certificate of Fitness program in the Department of Labor. Funding of \$5.9 GF/PR was authorized with creation of licensing for mechanical administrators. This fiscal note addresses the reduction of that authorization. Presently, there is no licensing program in existence for Electrical Administrators.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: 4/15/93

Approved by Commissioner: Paul Fuhs Date: 4/16/93
 Agency: Commerce & Economic Development

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO : SSHB 249

Revision Date: _____
 Title: Electrical/Mechanical Tradespersons
 Sponsor: Representative G. Davis
 Requestor: House State Affairs

Department Affected: Labor
 BRU: Labor Standards & Safety
 Component: Mechanical Inspection
 COMPONENT SERIAL NO. 346

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	32.7	32.7	32.7	32.7	32.7	32.7
TRAVEL	10.0	10.0	10.0	10.0	10.0	10.0
CONTRACTUAL	39.6	29.0	29.0	29.0	29.0	29.0
SUPPLIES	7.6	7.6	7.6	7.6	7.6	7.6
EQUIPMENT	3.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	93.4	79.3	79.3	79.3	79.3	79.3

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

REVENUE	165.0	165.0	165.0	165.0	165.0	165.0
FUND SOURCE:	PR #1005	PR #1005	PR #1005	PR #1005	PR #1005	PR #1005

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt	93.4	79.3	79.3	79.3	79.3	79.3
1006 GF/MHTIA						
Other						
TOTAL	93.4	79.3	79.3	79.3	79.3	79.3

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

(see attached)

Prepared by: Donald G. Study, CSP, Director Phone: 465-6003
 Division: Labor Standards & Safety Date: 4/19/93

Approved by Commissioner: Charles W. Mahlen Date: 4/19/93
 Agency: Department of Labor

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Fiscal Note Analysis for

"An Act relating to... transfer of Electrical and Mechanical Administrators
licensing and enforcement to the Department of Labor..."

This bill would place responsibility with the Mechanical Inspection component of the Department of Labor for the licensing and enforcement functions of the Electrical Examiners Board which sunsetted June 30, 1992 and of the Mechanical Examiners Board which is due to sunset June 30, 1993.

Certificates for electrical and mechanical administrators would be issued and enforced under the department's Certificates of Fitness program. A full time position would be established to provide clerical and administrative support to the program.

A Clerk Typist III position would be established to provide clerical support necessary to the operation of the program. Duties would include: implementation of a computerized photo-identification licensing system to issue licenses and collect & maintain records of fees; issue and receive certificate of fitness application forms; assist with testing applicants; and answer routine questions from the public.

Travel funds would be required to allow investigators to travel to work sites to investigate alleged violations. Also included is funding for a Hearing Officer to travel between Juneau, Anchorage, and Fairbanks to conduct hearings and appeals.

Additional contractual and commodity expenses would also be incurred by the position for phones, space, vehicle lease, office supplies, and other normal position costs. In addition funds for program costs such as mass mailings to licensees, forms production and mailing, third party testing services, and legal support have been included. Also, one time contractual funding for computer programming to integrate the licensing functions into the departments licensing system is also required.

Equipment needed would be a personal computer, telephone, desk, and chair.

Revenue from testing and licensing is expected to fund these program costs. The revenue estimates are:

	<u>per year</u>
Electrical Administrators - 600 licenses x \$250 biennial fee =	\$75,000 -
Mechanical Administrators - 600 licenses x \$250.00 biennial fee =	\$75,000
Examination - 150 applications x 2 categories x \$50.00 fee =	\$15,000

Total estimated revenue = \$165,000.00

An effective date of July 1, 1993 is assumed.

Position Title Clerk Typist III		No. of Positions 1	Range/Step 8 A	Barg. Unit GGU
Time Status Full Time	Staff Months 12	Location Anchorage		Election District 7
Type of Expenditure		Amount		
Salary	\$21,996			
Benefits	10,679			
Premium Pay				
Other				
Total Personal Services		\$32,675		
Travel				
Contractual		2,000		
Commodities		500		
Equipment		3,500		
Other				
Total Cost		\$38,675		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004			
I-A Receipts	1007			
GF Program Receipts	1005	38,675		
Other				
<p>Justification</p> <p>This position will provide clerical and administrative support necessary to the operation of the program. Duties will include: collect and maintain records of fees; issue and receive application forms; issuing licenses; and answer routine questions from the public.</p> <p>Contractual costs include postage, phone, space rent, and other per employee costs.</p> <p>Commodities cover normal office supplies for this position.</p> <p>Equipment is for a personal computer, desk and chair and is a one time cost.</p>				

**Request For
New Position**

Agency Labor
 BRU Labor Standards & Safety
 Component Mechanical Inspection

Page 3 of 3
 Revised Date

FY 94

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SSHB 249

Revision Date: _____ Dept. Affected: Commerce & Economic Development
 Title: An Act relating to persons whose BRU: Occupational Licensing
occupations involve electrical or mechanical;.... Component: Operations
 Sponsor: Rep. G. Davis
 Requestor: House Labor & Commerce COMPONENT SERIAL NO. 1844

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL	(3.9)					
CONTRACTUAL	(2.0)					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(5.9)	.0	.0	.0	.0	.0
CAPITAL						
REVENUE FUND SOURCE:	(67.0)	.0	.0	.0	.0	.0

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	(5.9)					
1006 GF/MHTIA						
Other						
TOTAL	(5.9)	.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

Estimate of current year (FY 93) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)
 SSHB 249 repeals AS 08.40 pertaining to the licensing of electrical and mechanical administrators, and creates certification for these professions under the Certificate of Fitness program in the Department of Labor. Funding of \$5.9 GF/PR was authorized with creation of licensing for mechanical administrators. This fiscal note addresses the reduction of that authorization. Presently, there is no licensing program in existence for Electrical Administrators.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: 4/15/93

Approved by Commissioner: Paul Fuhs Date: 4/16/93
 Agency: Commerce & Economic Development

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HB

254

"(2) "meeting" means a gathering of two or more members of a body with the authority to make joint decisions for the propose of exercising the powers or duties of the body, but only if the gathering includes at least a quorum of the membership; attendance of members of a body at a social function or gathering of a national, regional, or state association to which the member belongs or to which the public entity belongs does not constitute a meeting unless members attend for the purpose of circumventing this section;"

Page 6, after line 16:

Insert a new subsection to read:

"(c) Until recommendations submitted to the legislature under (a) of this section are implemented, the legislature shall conduct its meetings in accordance with the Uniform Rules of the Alaska State Legislature."

Discussed by AV #566



May 2, 1994

TO: Senator Suzanne Little
FROM: Kent E. Swisher
Executive Director
RE: HB 254 - Open Meetings Act

Boroughs and Combined Municipalities

Aleutians East Borough	7 + Mayor
Municipality of Anchorage	11 + Mayor
Bristol Bay Borough	5 + Mayor
Denali Borough	8 + Mayor
Fbks North Star Borough	11 + Mayor
Haines Borough	6 + Mayor
City and Borough of Juneau	9 (incl. Mayor)
Kenai Borough	9 + Mayor
Ketchikan Gateway Borough	7 + Mayor
Kodiak Island Borough	7 + Mayor
Lake & Peninsula Borough	6 + Mayor
Mat-Su Borough	7 + Mayor
North Slope Borough	7 + Mayor
N.W. Arctic Borough	11 + Mayor
City and Borough of Sitka	6 + Mayor
Yakutat Borough	6 + Mayor

Cities

Home Rule - 12 jurisdictions -	Cordova	6 + Mayor
	Fairbanks	6 + Mayor
	Kenai	6 + Mayor
	Ketchikan	7 + Mayor
	Kodiak	6 + Mayor
	Nenana	6 + Mayor
	N. Pole	6 + Mayor
	Palmer	6 + Mayor
	Petersburg	6 + Mayor
	Seward	6 + Mayor
	Valdez	6 + Mayor
	Wrangell	6 + Mayor

First Class Cities - 21 jurisdictions - All are 6 + Mayor

2nd Class Cities - 117 jurisdictions - All are 7 members
(includes Mayor)

153 jurisdictions where a quorum is four members (Total of 165)

Association of Alaska School Boards

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Marina Schelber
Willie Echuck
Nick Johnson

11 members - 2

9 - 3

7 - 21

6 - 3

5 - 24

4 - 1

54 Total



SENATE CS FOR CS FOR HB 254 OPEN MEETINGS ACT CLARIFICATIONS

- Removes the legislature from coverage of the Act.
- Agency materials shall be made available at teleconferences if practicable. The votes shall be conducted by roll call.
- Regarding executive sessions; adds "the motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Action may not be taken in executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations."
- Adds new subject allowed to be discussed in executive session: (4) matters involving consideration of government records that by law are not subject to public disclosure.
- Act does not apply to (additional items): (6) staff meetings. . .including meetings of employee groups established by the Board of Regents of the University of Alaska. . .
(7) . . .attendance at national, state, or regional conferences as long as no action or business of the governmental body takes place.
- Notice of meetings shall be given by print or broadcast media and shall be posted.
- Allows action taken in violation of the Act to be voidable by the court. A lawsuit must be filed within 180 days after the date of the action. A member of the body may not be named personally. A governmental body that violates the act may cure the violation by holding another meeting in compliance with notice and other requirements. The section lists items for the courts to consider in voiding an action.
- New definitions: governmental body, meeting, and public entity.

Governmental body - assembly, council, board, commission, committee, or other similar body with authority to establish policies or make decisions for the public entity. Advisory bodies are covered by the Act except for subsection (f) - which deals with voiding the action taken.

Meeting - (A) a gathering of more than three members or a majority of members (whichever is less). (B) a prearranged gathering to consider a matter if the body is advisory.

Public entity - does not include the court system or legislative branch of government.
- The open meetings act shall be construed narrowly.
- Exempts the legislature from the Ethics Committee open meetings rules and sets up a new committee made up of four legislators and 2 Ethics Committees members to establish guidelines for the legislature.

Effect of amendments. — The first 1988 amendment, effective June 2, 1988, added "or" at the end of former paragraph (c)(1).
The second 1988 amendment, effective June 18, 1988, repealed former subsection (e), which related to activities which were not conflicts of interest.
The 1992 amendment, effective January 11, 1993, rewrote this section.

Sec. 24.60.031. Restrictions on fund raising. (a) A legislator or legislative employee may not

(1) while the legislature is in regular or special session, solicit or accept a contribution or a promise or pledge to make a contribution for a state legislative campaign;

(2) accept money from an event held during a legislative session if a substantial purpose of the event is either to raise money on behalf of the member or legislative employee for campaign purposes or to raise money for state legislative political purposes; or

(3) expend money in a state legislative campaign that was raised by or on behalf of a legislator during a legislative session under a general letter of intent to become a candidate for public office.

(b) In this section, "contribution" has the meaning given in AS 15.13.130. (§ 4 ch 127 SLA 1992)

Sec. 24.60.033. Restrictions on employee candidacies. A legislative employee may not file a letter of intent to become a candidate or file a declaration of candidacy for the legislature. (§ 4 ch 127 SLA 1992)

Sec. 24.60.035. Protection of whistle blowers. A legislator or legislative employee may not, directly or indirectly, subject a person who reports to the committee or another government entity conduct the person reasonably believes is a violation of this chapter or another state law, to reprisal, harassment, or discrimination. A legislative employee who is discharged, disciplined, involuntarily transferred, or otherwise penalized by a legislator or another legislative employee in violation of this subsection may

(1) bring a complaint before the committee; and

(2) bring a separate civil action in the courts seeking damages, payment of back wages, reinstatement, or other relief. (§ 4 ch 127 SLA 1992)

Sec. 24.60.037. Open meetings law. Legislators shall abide by AS 44.62.310 — 44.62.312 (open meetings law). The committee shall develop guidelines for the application of this section to the legislature. The guidelines must permit closed caucuses and private, informal meetings or conversations between legislators in which political strategy is discussed. In a proceeding under AS 24.60.170 in which a violation of this section is alleged, if the committee finds that a person

acted within the adopted guidelines, the committee shall dismiss the complaint as to that violation. (§ 4 ch 127 SLA 1992)

Sec. 24.60.039. Discrimination prohibited. A legislator or legislative employee may not engage in acts of discrimination in violation of AS 18.80.220. (§ 4 ch 127 SLA 1992)

Sec. 24.60.040. Contracts or leases. (a) A legislator or legislative employee, or a member of the immediate family of a legislator or legislative employee may not be a party to or have an interest in a state contract or lease unless the contract or lease is let through competitive sealed bidding under AS 36.30 (State Procurement Code) or the total annual amount of the state contract or lease is \$1,000 or less, or is a standardized contract or lease that was developed under publicly established guidelines and is generally available to the public at large, members of a profession, occupation, or group. A person has an interest in a state contract or lease under this section if the person receives direct or indirect financial benefits.

(b) In this section, "direct or indirect financial benefits" means income, profits, or other financial benefits under a state contract, without regard to whether the income, profits, or other financial benefits ensue to the person as a partner, shareholder, investor, agent, employee, consultant, or joint venturer of the contractor. (§ 1 ch 36 SLA 1984; am § 24 ch 106 SLA 1986; am § 4 ch 113 SLA 1986; am § 5 ch 127 SLA 1992)

Effect of amendments. — The 1992 amendment, effective January 11, 1993, at the beginning of subsection (a), substituted "A legislator or legislative employee, or a member of the immediate family of a legislator or legislative employee" for "A person to whom this chapter applies."

Sec. 24.60.045. Hazardous waste contracts. [Repealed, § 42 ch 127 SLA 1992.]

Sec. 24.60.050. State programs and loans. (a) A legislator or legislative employee may, without disclosure to the committee, participate in a state benefit program or receive a loan from the state if the program or loan is generally available to members of the public, is subject to fixed, objective eligibility standards, and requires minimal discretion in determining qualification.

(b) The committee shall review state benefit programs and state loans and annually publish a list of programs and loans, designating which ones do not meet the standards of (a) of this section.

(c) A legislator or legislative employee who participates in a program or receives a loan that is not exempt from disclosure under (a) of this section shall file a written report with the committee by February 15 of each year stating the amounts of the loans outstanding or bene-

HB 254 - OPEN MEETINGS ACT CLARIFICATIONS

HOUSE VERSION

AS 44.62.310(a): Lists who is covered by the statute (includes the legislature)

AS 44.62.310(b): States materials may be made available at teleconference locations. The vote taken at a teleconference shall be taken by roll call unless the question is approved by unanimous consent.

AS 44.62.310(c): Allows an additional excepted subject for executive session:

(4) matters that are covered by the attorney-client privilege.

AS 44.62.310(d): Removes the governing body or committee of a hospital from the exemption from this section.

SENATE VERSION

AS 24.60.037: Removes the legislature from coverage of the Act.

AS 44.62.310(a): Provides that agency materials shall be made available at teleconferences if practicable. The votes shall be conducted by roll call. Moves "governmental body" and "public entity" to definition section.

AS 44.62.310(b): Relating to executive sessions and adds "the motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Action may not be taken in executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

AS 44.62.310(c): Adds (4) matters involving consideration of government records that by law are not subject to public disclosure to subjects that may be considered in executive session.

AS 44.62.310(d): This section does not apply to: (additional items) (6) staff meetings. . .including meetings of employee groups established by the Board of Regents of the University of Alaska. . .

(7) . . .attendance at national, state, or regional conferences, but no action or business of the governmental body can take place.

HOUSE VERSION (CONTINUED)

AS 44.62.310(e): Allows for a short notice period in an emergency.

AS 44.62.310(f): Allows action taken in violation of the act to be voidable by a court. It also states that all parties shall bear their own costs and attorney fees.

AS 44.62.310: Adds definition of a meeting: "meeting" would include at least a quorum of the membership and attendance at a social function or gathering of a national, regional, or state association to which the members belong would not constitute a meeting unless members attend for the purpose of circumventing this section.

SENATE VERSION (CONTINUED)

AS 44.62.310(e): Removes emergency notice provision. Requires notice to be given by print or broadcast media and to be posted.

AS 44.62.310(f): Allows action taken in violation of the act to be voidable by the court. A lawsuit must be filed within 180 days after the date of the action. A member of the body may not be named personally. A governmental body that violates the act may cure the violation by holding another meeting in compliance with notice and other requirements. The section lists items for the courts to consider in voiding an action.

AS 44.62.310 adds new definitions: governmental body, meeting, and public entity.

Governmental body - assembly, council, board, commission, committee, or other similar body with authority to establish policies or make decisions for the public entity. Advisory bodies are covered by the Act except for subsection (f).

Meeting - (A) a gathering of more than three members or a majority of members (whichever is less). (B) a prearranged gathering to consider a matter if the body is advisory.

Public entity - does not include the court system or legislative branch of government.

AS 44.62.312 (b): The open meetings act shall be construed narrowly.

OPEN MEETINGS COMMITTEE: Exempts the legislature from the ethics committee open meetings rules and sets up a new committee made up of 4 legislators and 2 ethics committee members to establish guidelines for the legislature.



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

State Capitol
Juneau, AK 99801-1182

May 3, 1994

TO: Conference Committee Members
HB 254 - Open Meetings Act

We, the undersigned House members, believe the compromise language on open meetings adopted by the Senate Rules Committee is good legislation and we support its passage.

This version has been agreed to by the Alaska Municipal League, Alaska League of Women Voters, University of Alaska, Alaska Association of School Boards, and members of the press corps.

We urge the conference committee to keep the compromise language intact and focus its attention on the changes made on the Senate floor dealing with how the Open Meetings Act applies to the Legislature.

Jim Paulson
David Zink
Ed Willis
Lon Hoff
Carl Hennings
Joe Davis
Ray Brown

Tom Bice
Mike Savane
Pat Casney
Bettye Davis
Nithu
Wendy Nichols
Ben Sanderson
Arvidson

File HB 254



CITY OF PETERSBURG
P.O. BOX 329 • PETERSBURG, ALASKA 99833
TELEPHONE (907) 772-4511
TELECOPIER (907) 772-3759

APR 25 1994

April 20, 1994

Representative Ben Grussendorf
Room 415
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Grussendorf:

Enclosed please find a copy of City of Petersburg Resolution No. 1357-R urging the legislature to amend the Open Meetings Act during the current session.

The City Council supports House Bill 254 and looks forward to clarification of the Act to enable the Council to conduct the business of the public openly and effectively.

Sincerely,

Dave Carlson, Mayor
City of Petersburg

cc: Representative Al Vezey
Representative Pete Kott
Representative Jerry Sanders
Representative Harley Olberg
Representative Gary Davis
Representative Bettye Davis
Representative Fran Ulmer

Resolution No. 1357-R

A RESOLUTION URGING THE LEGISLATURE TO AMEND THE OPEN MEETINGS ACT IN THE 1994 LEGISLATIVE SESSION.

Whereas, political subdivisions of the State of Alaska continue to operate under an act that is difficult to interpret and apply; and

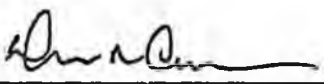
Whereas, political subdivisions and the Alaska Municipal League representing cities and boroughs throughout the State have encouraged amendment to the Open Meetings Act; and

Whereas, the legislature is urged to:

- clarify what constitutes a "meeting";
- clarify who is subject to the Act;
- clarify provisions regarding executive sessions; and
- amend provisions governing remedies for violations of the Act.


Therefore Be It Resolved by the City Council of the City of Petersburg, Alaska to urge the Legislature pass legislation to clearly spell out guidelines that will enable governmental bodies to conduct the business of the public openly and effectively.

Passed and Approved this 18 day of April, 1994.



Dave Carlson, Mayor
City of Petersburg, Alaska

Attest:



Larissa Curtis
City Clerk

Alaska State Legislature



While in Session:
State Capitol Building
Juneau, Alaska 99801-1182
907-465-3719

Interim:
119 N. Cushman
Suite 211
Fairbanks, Alaska 99701
907-456-5081

Representative Al Vezey

MEMORANDUM

DATE: May 5, 1994
TO: HB 254 Conference Committee Members
FROM: Representative Al Vezey, Chairman *AV*
RE: May 5, 1994, 9 a.m. Meeting

At the 9 a.m. meeting this morning the attached amendment was distributed by Representative Mackie. Please review. The meeting was recessed, thereby rescheduled for 5 p.m., May 5, 1994.

Al Vezey

AV/wmb

A M E N D M E N T

OFFERED IN THE HOUSE

TO: SCS CSHB 254(RLS) am S

Page 6, lines 8 - 17:

Delete all material.

Insert new bill sections to read:

"* Sec. 9. AS 24.60.037 is repealed and reenacted to read:

Sec. 24.60.037. OPEN MEETINGS LAW. Legislators shall abide by open meetings principles. The committee shall develop guidelines for the application of principles of open meetings of governmental bodies to the legislature. The guidelines must permit closed caucuses and private, informal meetings or conversations between legislators in which political strategy is discussed. In a proceeding under AS 24.60.170 in which a violation of this section is alleged, if the committee finds that a person acted within the adopted guidelines, the committee shall dismiss the complaint as to that violation.

* Sec. 10. OPEN MEETINGS GUIDELINES. (a) Notwithstanding AS 24.60.037, adoption of initial guidelines applying the open meetings principles to the legislature are subject to approval by the legislature as provided under this subsection. By January 16, 1995, the Select Committee on Legislative Ethics shall submit proposed initial guidelines to the legislature. The guidelines take effect when the legislature adopts a concurrent resolution approving them. If the new guidelines are not approved, the Select Committee on Legislative Ethics, after considering recommendations by the Open Meetings Advisory Committee, shall continue to submit proposed initial guidelines in accordance with the procedure set out in this subsection until the guidelines are approved.

(b) There is established an Open Meetings Advisory Committee consisting of two senators appointed by the president of the senate, two representatives appointed by the speaker of the house of representatives, and two public members appointed from the Select Committee on Legislative Ethics by its chair. The advisory committee shall consider

application of open meetings principles to the legislature and submit a report of its recommended guidelines to the Select Committee on Legislative Ethics by December 1, 1994. The advisory committee is terminated upon approval of initial guidelines by the legislature."

Renumber the following bill section accordingly.

HB

255



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325, Fax (907) 463-5480

January 24, 1994

TO: Representative Harley Olberg, Chair
and Members
House Committee on Community and Regional Affairs

FROM: Kent E. Swisher, Executive Director

RE: **SS HB 255 - Local exemption from PERA**

Although **SS HB 255-Local exemption from PERA** does not give local governing bodies as much authority as the Alaska Municipal League prefers, the League supports the bill as a step in the right direction. SS HB 255 would allow municipalities to choose, by vote of the people, to withdraw from coverage under the Public Employees Relations Act (PERA), which mandates collective bargaining. Municipal voters could also elect to become covered by PERA. The bill is consistent with AML's overall philosophy of allowing maximum local control over the operation of municipal government.

The Alaska Municipal League 1994 Policy Statement (Part VII - Local Government Powers, C.1 - Alaska Public Employees Labor Relations Act) includes the following statement:

The League strongly opposes any legislation that would force municipalities to be subject to the provisions of the Alaska Public Employees Labor Relations Act. The League opposes, just as strongly, any legislative efforts to dictate the provisions of local public employee labor relations ordinances. **The League supports legislation to allow each municipality to reject or withdraw from the terms of the Alaska Public Employees Labor Relations Act at any time by action of the governing body.** The scope of decisions as to local government finance and labor policies is best left to the local governing body. (emphasis added)

Alaskan municipalities, including several now covered by PERA, are facing severe financial challenges. Local governing bodies must be allowed maximum authority to address those challenges and to develop local solutions to them. Allowing local voters to choose to exempt their municipalities from the provisions of PERA is one step toward that goal. AML supports HB 255 as a move in the right direction.

94LEGIS:HB255.124

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 14, 1994

FURTHER REFERRALS:

State Affairs
Finance

Date of Committee Action: CFRA

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

SSHB 255

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 255

LOCAL EXEMPTION FROM PERA

"An Act relating to application of the Public Employment Relations Act to municipalities and other political subdivisions."

RECOMMENDATIONS:

be replaced with _____ [] the same title
[] a new title

[] have attached amendments(s)

[] do pass

[] do not pass

[] no recommendations

[X] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____

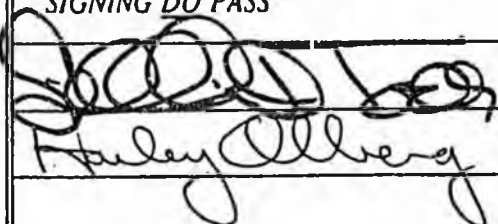
APPROVES PREVIOUS: (Dept/Date) _____

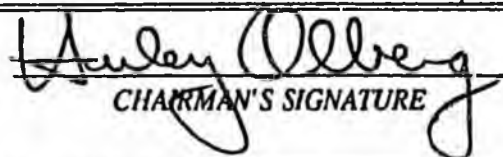
[] fiscal impact _____

[] fiscal note(s) _____

[X] zero fiscal note CFRA

[] zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
	✓	Jerry Sanders		✓	
	✓	Con Brund		✓	
		W. K. Williams	✓		
		John Davis	✓		


CHAIRMAN'S SIGNATURE

Revision Date: 1/25/94 Dept. Affected: Community & Regional Affairs
 Title: "An Act relating to application of the Public Employment Relations Act" BRU: _____
 Sponsor: House State Affairs Committee Component: _____
 Requestor: House C&RA COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current (FY93) Impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Remond Henderson Director Phone: 465-4708
 Division: Administrative Services Date: 1/25/94
 Approved by Commissioner: [Signature] Deputy Commissioner Date: 1/25/94
 Agency: Community & Regional Affairs

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217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325. Fax (907) 463-5480

January 24, 1994

TO: Representative Harley Olberg, Chair
and Members
House Committee on Community and Regional Affairs

FROM: Kent E. Swisher, Executive Director

RE: **SS HB 255 - Local exemption from PERA**

Although **SS HB 255-Local exemption from PERA** does not give local governing bodies as much authority as the Alaska Municipal League prefers, the League supports the bill as a step in the right direction. SS HB 255 would allow municipalities to choose, by vote of the people, to withdraw from coverage under the Public Employees Relations Act (PERA), which mandates collective bargaining. Municipal voters could also elect to become covered by PERA. The bill is consistent with AML's overall philosophy of allowing maximum local control over the operation of municipal government.

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94LEGIS:HB255.124



NEA-ALASKA

Affiliated with the National Education Association

POSITION - HB 255 AND SSHB 255

NEA-Alaska opposes HB 255 and the SSHB 255. The focus of this position paper will be on SSHB 255.

The bill will allow municipalities or other political subdivisions including school districts to conduct an election to determine if employees are to continue under the provision of AS 23.40.070 - 23.40.260.

Since the early 1970's state policy extended the statutory right to bargain to public employees. School employees struggled for over ten years to establish their rights under PERA. The schools and school employees have developed a successful pattern of bargaining under PERA for nearly four years.

Bargaining provides public employees a good participatory way to influence decisions that affect the work place. At the bargaining table public employees share in the decision-making process affecting wages and working conditions. They have become more responsive and better able to exchange ideas and information on operations with their administrators. Successful businesses are moving to management models designed to involve employees in a meaningful participatory role. Studies have shown that successful school reform occurs in school districts where mature bargaining relations exist.

If SSHB 225 were to become law, labor relations between school districts and school employees would be disrupted. Good faith bargaining would give way to politics. Management and school boards would have greater latitude to delay and forestall the bargaining process. Some school districts could submit the question of continuance under PERA to voters annually or during each round of bargaining. In short the school, municipal, borough or state employee would lose. Inconsistency between units and school districts would occur. The bargaining process would be weakened and in some instances destroyed.

The bill calls for a vote of the people. Who pays for the election? Will the election activate adversarial clashes between the special anti-labor groups with agendas opposed to working people?

We live in a republic where representatives are elected to make decisions for their constituency in view of the public good. The issue of inclusion of school employees under PERA has been debated on the state level. A majority of the legislature, after weighing carefully the facts and information, decided it is good policy. In its declaration of policy, Sec. 23.40.070, "the legislature finds that joint decision-making is the modern way of administering government."

1-25-94

HOUSE BILL NO. 255

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Introduced: 3/26/93
Referred: State Affairs

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to application of the Public Employment Relations Act to
2 municipalities and other political subdivisions."

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

4 * Section 1. AS 23.40 is amended by adding a new section to read:

5 Sec. 23.40.085 APPLICATION TO POLITICAL SUBDIVISIONS. (a) The
6 provisions of AS 23.40.070 - 23.40.260 apply to municipalities and other political
7 subdivisions of the state unless, by majority vote of the voters in the municipality or
8 political subdivision participating in the election, the municipality or political
9 subdivision rejects application of these provisions.

10 (b) A municipality or other political subdivision that has

11 (1) rejected application of the provisions of AS 23.40.070 - 23.40.260
12 may elect to become covered by these provisions by majority vote of the voters
13 participating in the election;

14 (2) elected to be covered by the provisions of AS 23.40.070 - 23.40.260

1 may reject coverage of these provisions by majority vote of the voters participating in
2 the election.

3 * Sec. 2. Section 4, ch. 113, SLA 1972, and sec. 11, ch. 1, SLA 1992, are repealed.

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: 'An Act relating to application of the Public Employment Relations Act' BRU: _____
 Component: _____
 Sponsor: House State Affairs Committee
 Requestor: Sen. Vezey COMPONENT SERIAL NO. _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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 FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current (FY93) Impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Remond Henderson Phone: 465-4708
 Division: Administrative Services Date: 4/6/93
 Approved by Commissioner: [Signature] Deputy Commissioner Date: 4/6/93
 Agency: Community & Regional Affairs

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Suite 211
Fairbanks, Alaska 99701
907-456-5081

Representative Al Vezey

January 12, 1994

SPONSOR STATEMENT

HB 255

The intent of HB 255 "An Act relating to application of the Public Employment Relations Act to municipalities and other political subdivisions." is to allow municipalities the option of removing themselves from PERA. Under this proposed legislation, a municipality could make such a decision with the approval of the voters of the municipality.

It was the intent of the 1972 legislation to allow municipalities to opt out of PERA. As the law currently exists, a municipality under PERA for all practical purposes, cannot remove themselves. This determination has been brought about by decisions of the court. This condition has resulted in diminished control over local self determination.

Existing legislation as interpreted by the courts has put local governing bodies in a position where one governing body can obligate all future governing bodies. This bill is intended to correct what the legislature has inadvertently allowed the court to mandate on local governments by placing the decision making process back into the hands of local governing officials and the people.

Post-It™ brand fax transmittal memo 7671 # of pages > 2

To Joe Esau	From City Clerk
Co. ST. Legislature	Co. City of Fbx
Dept.	Phone # 459-6710
Fax # 465-3258	Fax # 459-6710

duced by: Council Member Cleworth
May 20, 1991

RESOLUTION NO. 3261, As Amended

A RESOLUTION URGING THE ALASKA STATE LEGISLATURE TO ENACT AN EXEMPTION BY POPULAR ELECTION PROVISION TO THE STATE PUBLIC EMPLOYMENT RELATIONS ACT.

WHEREAS, by resolution the City of Fairbanks exercised its exemption following the adoption of PERA, but in 1984 waived the exemption by ordinance, thus becoming the first major municipality in Alaska to fall under PERA's jurisdiction; and

WHEREAS, among its many provisions PERA provides for mandatory binding arbitration concerning wages, hours and terms and conditions of employment for Class I public employees; and

WHEREAS, binding arbitration divests a local governing body of its publicly entrusted spending power and delegates the same to an individual not elected by the people and with no fiduciary duty of loyalty and responsibility to local citizens; and

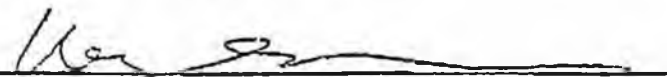
WHEREAS, this divestiture effectively removes the voice of the people over how their tax dollars are to be spent in the public domain; and

WHEREAS, the cost of local government must be controlled by those who pay for it; and

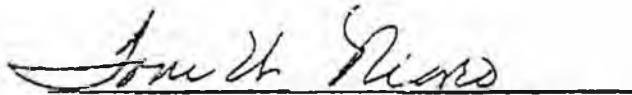
WHEREAS, an exemption by popular election amendment to PERA can restore to local citizens their constitutional entitlement of maximum local self government and the assurance that all local government powers will remain vested in those charged with the public trust.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, that the Alaska State Legislature be and hereby is urged to enact a bill providing for clarification of the municipal exemption and address a popular election provision to the state Public Employment Relations Act (PERA). A municipal exemption by popular election provision should include, but not be necessarily limited to, express statutory language to provide for a popular election to determine whether municipalities under the jurisdiction of PERA shall remain subject to its provisions. Copies of this resolution shall be forwarded by the city clerk to all legislators and the governor.

PASSED AND APPROVED this 20th day of May, 1991.


WAYNE S. NELSON, Mayor

ATTEST:


TONI W. NIGRO, City Clerk

Alaska State Legislature

Legislative Research Agency



130 Seward Street, Suite 213
Juneau, Alaska 99801-2196

Phone: (907) 463-3991
Fax: (907) 463-3351

AUG 16 1993

July 8, 1993

MEMORANDUM

TO: Representative Al Vezey

FROM: Carol R. Vandor *CRV*
Legislative Analyst

RE: Public Employment Relations Act (PERA)
Research Request 93.232

You asked about the number of state political subdivisions covered by the Public Employment Relations Act (PERA). Title 23, chapter 40 of the Alaska statutes governs PERA. There is no requirement for a political subdivision to report its status under PERA; therefore, the only way of knowing whether a political subdivision is covered under PERA or has opted-out is if a hearing has been held by the Alaska Labor Relations Agency or a suit has been filed in the courts. Following is a brief discussion of PERA and the Alaska Labor Relations Agency followed by a list of the 15 political subdivisions that are known to be covered by PERA and the 11 that have opted-out of PERA.

Public Employment Relations Act

In June 1972 the State of Alaska enacted the Public Employment Relations Act. The PERA confers upon public employees the right to organize and to bargain collectively with their employers (AS 23.40.080). The Declaration of Policy, set forth in AS 23.40.070, states in part:

The legislature declares that it is the public policy of the state to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government. These policies are to be effectuated by recognizing the right of public employees to organize for the purpose of collective bargaining; (2) requiring public employers to negotiate with and enter into written agreements with employee organizations on matters of wages, hours, and other terms and conditions of employment; and (3) maintaining merit-system principles among public employees.

Representative Vezey
July 8, 1993
Page 2

Alaska Statute 23.40.250 defines public employer and public employee as used in the Declaration of Policy as follows:

"public employer" means the state or a political subdivision of the state, including without limitation, a municipality, district, school district, regional educational attendance area, board of regents, public and quasi-public corporation, housing authority, or other authority established by law, and a person designated by the public employer to act in its interest in dealing with public employees.

"public employee" means any employee of a public employer, whether or not in the classified service of the public employer, except elected or appointed officials or superintendents of schools.

An appointed official, defined in 2 AAC 10.220, is a person who exercises significant responsibilities for the public employer in the area of collective bargaining policy formulation and implementation.

The interpretation of PERA as it applies to political subdivisions has been litigated on several occasions since PERA was enacted. The most recent decision, *Kodiak Island Borough v State of Alaska*, Supreme Court File No. S-4891, (June 1993) addressed the issue of the right of public employees to organize for the purpose of collective bargaining under PERA, and the right of a political subdivision to exempt itself. In this case, the borough had adopted an opt-out resolution in 1980 after it became aware of substantial organizational activities by its employees. The court ruled that a political subdivision may not opt-out of PERA after becoming aware of organizational activity by employees. A copy of the decision is attached.

Alaska Labor Relations Agency

For many public employees in Alaska, the Alaska Labor Relations Agency provides enforcement of PERA. The agency is comprised of three members appointed by the governor and confirmed by the legislature. It serves as the labor relations agency under the Public Employment Relations Act and carries out the functions specified in that act. Under Title 23, the agency has the authority to enter into labor management matters when certain situations exist. The agency has several responsibilities, one of which is the investigation and resolution by conciliation of unfair labor practices committed by either employers or employees. The decisions can be enforced by an injunction to cause the prohibited practice to cease and desist. The agency also decides the unit appropriate for the purpose of

Representative Vezey

July 8, 1993

Page 3

collective bargaining and schedules representation elections and settles issues regarding clarifications of the appropriate unit.

PERA Status

According to the Alaska Labor Relations Agency employees of 15 political subdivisions are known to be covered under PERA and 11 political subdivisions have opted-out. PERA status is pending in three political subdivisions.

Covered

City of Whittier
Bristol Bay Borough
City of Fairbanks
Fairbanks North Star Borough
Ketchikan Gateway Borough
Nome
City of Seldovia
Unalaska
Petersburg
Haines Borough
Thomas Bay Power Authority
City of Dillingham
City of Cordova
City of Hoonah
Kodiak Island Borough

Opted-Out

City of Ketchikan
Wrangell
Seward
North Pole
North Slope Borough
City and Borough of Juneau
Municipality of Anchorage
Sitka
Mat-Su Borough
City of Kodiak
City of Homer

Status Dispute Pending

City of Bethel
City of Kotzebue
City of Haines

I hope this information is useful to you. If we may be of further assistance, please contact this office.

Attachments

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

RECEIVED
JUN 07 1993
Alaska Labor Relations Agency

THE SUPREME COURT OF THE STATE OF ALASKA

KODIAK ISLAND BOROUGH,)
)
Appellant,)
)
v.)
)
STATE OF ALASKA, DEPARTMENT)
OF LABOR, LABOR RELATIONS)
AGENCY; and the INTERNATIONAL)
BROTHERHOOD OF ELECTRICAL)
WORKERS, LOCAL 1547,)
)
Appellees.)

Supreme Court File No. S-489
Superior Court File No.
3AN-90-4512 Civil

O P I N I O N

[No. 3965 - June 4, 1993]

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Karen L. Hunt, Judge.

Appearances: Paul H. Cragan, Hughes, Thorsness, Gantz, Powell & Brundin, Fairbanks, for Appellant. Toby N. Steinberger, Assistant Attorney General, Anchorage, and Charles E. Cole, Attorney General, Juneau, for State of Alaska, Department of Labor, Labor Relations Agency and William F. Morse, Associate General Counsel, IBEW LOCAL UNION 1547, for Brotherhood of Electrical Workers, Local 1547, Appellees.

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

COMPTON, Justice.
BURKE, Justice, concurring.
MATTHEWS, Justice, concurring.

This case arises out of the Department of Labor, Labor Relations Agency's (DOL) ruling that the Kodiak Island Borough's (Borough) 1980 resolution opting out of the Public Employment Relations Act (PERA) AS 23.40.070-.260 was invalid. On appeal to the superior court, Judge Karen Hunt affirmed the DOL ruling. The Borough appeals. We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

The material facts are not disputed. In June 1972 the State of Alaska enacted PERA. PERA confers upon public employees the right to organize and to bargain collectively with their employers. However, Section 4 of PERA also permits the legislative body of any political subdivision of the state to reject PERA, preventing its application to the public employees of that subdivision. Section 4 reads:

This Act is applicable to organized boroughs and political subdivisions of the state, home rule or otherwise, unless the legislative body of the political subdivision, by ordinance or resolution, rejects having its provisions apply.

Ch. 113, § 4, SLA 1972. PERA became effective on September 5, 1972.

In 1977 the Borough enacted personnel rules and regulations governing relations with its employees. These rules do not require the Borough to recognize an employees' union nor do the rules expressly reject PERA. In 1979 Kodiak Island Borough Employees' Association (KIBEA) submitted a petition to DOL requesting that KIBEA be recognized as the bargaining

representative for the Borough's general government employees. KIBEA later withdrew its petition for certification in favor of a petition submitted by the Alaska Public Employees Association (APEA).

After becoming aware of this organizing activity, the Borough enacted Resolution No. 79-5-R, rejecting the application of PERA. DOL concluded that the Borough had not validly opted out of PERA. It sought to conduct a representation election under PERA. The Borough refused to allow the election to proceed. As a result DOL filed a lawsuit against the Borough in superior court.

The superior court granted DOL's motion for summary judgment, holding that the Borough had not validly opted out of PERA. DOL then held the certification election. APEA did not secure the requisite number of votes to be certified by DOL as the bargaining representative for the Borough employees.

On January 22, 1980, twelve days after DOL announced the results of the election, the Borough again attempted to reject PERA by adopting Resolution No. 80-5-R. The 1980 resolution is identical to the 1979 resolution:

Resolution No. 80-5-R, exempting Kodiak Island Borough from the Alaska Public Employment Act, Whereas, the assembly believes that the public interest is best served by administration of borough employee relations at the local level, and Whereas, the State Public Employee Relations Act applies to municipalities unless the governing body rejects application of its provisions; Now, therefore, the Kodiak Island Borough Assembly resolves: Pursuant to Section 4, Chapter 113 SLA 1972, the Kodiak Island Borough rejects application of Section 2, Chapter 113, [SLA] 1972, codified as

AS 23.40.070 et. seq., and commonly known as the Alaska Public Employment Relations Act.

In 1989 Borough employees again attempted to organize. The International Brotherhood of Electrical Workers, Local Union 1547 (IBEW), filed a petition with DOL to be recognized as the exclusive bargaining agent for the Borough employees. The Borough objected to the petition, claiming that it had "opted out" of PERA by its 1980 resolution. IBEW asserted that the 1980 opt out resolution was not valid and that DOL had proper jurisdiction.

DOL held a hearing on IBEW's petition for certification and the Borough's objections. DOL ruled that the Borough did not validly opt out of PERA in 1980. The Borough appealed this ruling to the superior court pursuant to AS 22.10.020(d) and Appellate Rule 602(a). The superior court affirmed DOL's decision. It held the 1980 resolution was untimely, since the Borough enacted the resolution after it was aware of organizational activities of its employees.

II. STANDARD OF REVIEW

The superior court was sitting as an intermediate appellate court. Accordingly, its decision is not entitled to deference. Tesoro Alaska Petroleum Co. v. Kenai Pipe Line Co., 746 P.2d 896, 903 (Alaska 1987). DOL held a formal adjudicatory hearing before a neutral hearing officer. Both parties were represented by counsel, examined and cross-examined witnesses and introduced evidence. The hearing officer rendered formal findings of fact and conclusions of law, which were adopted by DOL as its

decision. As to questions of law which do not involve agency expertise we apply the substitution of judgment standard of review. Union Oil Co. of California v. State, 804 P.2d 62, 64 (Alaska 1990). The primary task in this case is to construe two seemingly inconsistent sections of the same statutory scheme. The interpretation of this statute is a question of law to which we will apply our independent judgment.

To the extent that facts are necessary to the determination of the legal question, we will adopt DOL's findings of fact if they are supported by substantial evidence. Commercial Fisheries Entry Comm'n v. Baxter, 806 P.2d 1373, 1374 (Alaska 1991).

III. DISCUSSION

KODIAK ISLAND BOROUGH'S RESOLUTION EXEMPTING THE BOROUGH FROM THE PUBLIC EMPLOYMENT RELATIONS ACT IS NOT VALID

The question presented by this case involves the interplay between the right of public employees to organize for the purpose of collective bargaining under PERA,¹ and the right of a

-
1. Alaska Statute 23.40.070 states in relevant part:

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

(continued...)

political subdivision to exempt itself pursuant to section 4 of PERA. We previously examined these two provisions together in State v. City of Petersburg, 538 P.2d 263 (Alaska 1975). In Petersburg, the city's electrical workers signed cards authorizing IBEW to act as their collective bargaining representative. The city council then held a special meeting to exempt the city from the provisions of PERA. Id. at 264. At the time of this meeting the members of the city council were aware of employees' activities concerning the formation of a collective bargaining unit. Id.

In Petersburg we looked for the point beyond which the right of the city to reject PERA became subordinated to the rights of the employees to organize. We concluded that "the analysis must turn on both the substantiality of the organizational activities undertaken by the employees and the extent of the City's awareness of those activities." Id. at 267. The city's rejection of PERA after becoming aware of the organizational activities constituted "a gross and impermissible interference with the employees' freedom to choose which collective bargaining association should represent them. . . . [t]he City's prerogative to reject the Act is not to be used as a de facto veto against particular unions" Id. We noted that the city had requested that the employees form their own union rather than join IBEW. Id. We concluded such

1. (...continued)

(1) recognizing the right of public employees to organize for the purpose of collective bargaining.

maneuvering was an attempt to interfere with the employees' rights under PERA. Id.

In this case the Borough contends that DOL and the superior court erred by interpreting Petersburg too broadly. The Borough notes that section 4 expressly allows political subdivisions of the state to reject PERA. It argues that the Petersburg limitation on the employer's right to exempt itself should only apply to situations in which employee PERA rights are being interfered with by favoring one union over another. But, if the employer rejects PERA totally, refusing to deal with any union, section 4 applies.

The Borough thus argues that Petersburg should be read narrowly, prohibiting local government only from favoring one union over another. The Borough claims it engaged in no such favoritism. Rather, the Borough made the decision to avoid collective bargaining in order to manage its employment relations in a way that was beneficial and appropriate to the overall needs, abilities and resources of the community. Since the Borough did not interfere with any specific organizing efforts, it concludes that its election to reject PERA should be upheld.

DOL and IBEW argue that the Petersburg analysis should invalidate any rejection of PERA after employees have exercised their PERA rights. In 1979 Borough employees prevailed in a lawsuit which permitted them to exercise their PERA rights and to decide if a majority of the employees wanted to be represented by APEA. DOL and IBEW argue the Borough's attempt to reject PERA is

invalid because it occurred after the employees exercised their PERA rights.

In City & Borough of Sitka v. International Bhd. of Elec. Workers, Local Union 1547, 653 P.2d 332 (Alaska 1982), we held the opt out from PERA valid even though there had been prior employee organizing efforts. However, we distinguished Petersburg because the employees in Sitka had attempted to organize prior to the passage of PERA. From the time PERA was enacted until Sitka exempted itself there had been no organizing activities. The employees could not have organized in reliance on their PERA rights because PERA had not yet become the law. City & Borough of Sitka, 653 P.2d at 335.

By contrast, in this case Borough employees have already relied upon their PERA rights. The Borough's attempt in 1979 to stop the employees from organizing was an attempt, as in Petersburg, to deny employees their statutory right to organize. The fact that the resolution was passed just twelve days after the employee vote indicates the Borough was still attempting to thwart employee efforts to organize under PERA.²

In Petersburg we limited a local government's ability to exempt itself from PERA once the local government became aware of

2. We reject the Borough's contention that organizing activity had ceased after the election because there were no organizing efforts in the twelve day period preceding the Borough's rejection of PERA. We note that PERA requires employees to wait for one full year following a valid election before they can hold another election. AS 23.40.100. As the organizational hiatus during the twelve day period was consistent with PERA, the lack of organizational activity did not terminate the employees' PERA rights.

substantial steps taken by employees to exercise their PERA rights. Although this holding limits the freedom of political subdivisions to opt out of PERA, we concluded that this result was consistent with the legislature's intent. 538 P.2d at 268. "[A]pplicability of PERA is the rule, exemption the exception." Id. We reaffirm that political subdivisions may not reject PERA after becoming aware of substantial organizational activity by employees.³

IV. CONCLUSION

The Borough's rejection of PERA after it became aware of substantial organizational activity is invalid. The decision of the superior court affirming DOL's determination that the Borough's 1980 resolution was ineffective in rejecting PERA is AFFIRMED.

3. In Anchorage Mun. Employees Ass'n v. Municipality of Anchorage, 618 P.2d 575, 579 (Alaska 1980), we wrote "a public employer which chooses to opt out of PERA must do so promptly, rather than at its leisure" Because we conclude that Kodiak Island Borough's rejection of PERA after it became aware of substantial organizational activity was invalid, we do not reach the question of whether PERA can be rejected seven years after it was enacted.

BURKE, Justice, concurring.

I concur because I am bound by the decision of the court
in State v. City of Petersburg, 538 P.2d 263 (Alaska 1975).

MATTHEWS, Justice, concurring.

I agree that the 1980 opt-out resolution of the Kodiak Island Borough is invalid. I reach this conclusion on the basis of the fact that the resolution was untimely, coming as it did more than seven years after the effective date of PERA. This court has not established a specific time limit for a public employer to exempt itself from PERA. However, we have made it clear that "a public employer which chooses to opt out of PERA must do so promptly, rather than at its leisure" Anchorage Mun. Employees Ass'n v. Municipality of Anchorage, 618 P.2d 575, 579 (Alaska 1980) (opt-out resolution passed one month after municipal entity was created held timely). Although we have never set a definite outside limit after which a municipality's attempted opt-out would be considered untimely, it seems clear to me that the 1980 resolution of the Borough is necessarily beyond any reasonable limit.

I do not think that today's opinion is on sound ground in concluding that awareness of substantial organizational activity by employees necessarily precludes an employer from rejecting PERA. The point of State v. City of Petersburg, 538 P.2d 263 (Alaska 1975), is that an employer should not be able to change the rules by which organizational contests are conducted in the midst of a contest. In the present case the contest was over. The organizational election had been held and the union had lost. Despite the fact that the Borough was aware of these events, recognizing the opt-out as valid would not be unfair because the opt-out did not interfere with ongoing organizational activities.



LAWS OF ALASKA

1972

Source

Chapter No.

HB 683 am S

113

AN ACT

Relating to wages, hours and working arrangements.

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

* Section 1. AS 23.10.140 is amended to read:

Sec. 23.10.140. PENALTY. An employer who violates a provision of secs. 50 - 150 of this chapter, or of any regulation or order of the commissioner issued under it, upon conviction is punishable by a fine of not less than \$100 nor more than \$2,000, or by imprisonment for not less than 10 nor more than 90 days, or by both. Each day a violation occurs constitutes a separate offense.

* Sec. 2. AS 23.40 is amended by adding new sections to read:

ARTICLE 2. PUBLIC EMPLOYMENT RELATIONS ACT.

Sec. 23.40.070. DECLARATION OF POLICY. The legislature finds that joint decision making is the modern way of administering government. If public employees have been granted the right to share in the decision-making process affecting wages and working conditions, they have become more responsive and better able to exchange ideas and information on operations with their administrators. Accordingly, government is made more effective. The legislature further finds that the enactment of positive legislation establishing guidelines for public employment relations is the best way to harness and direct the energies of public employees eager to have a voice in determining their conditions of work, to provide a rational method for dealing with disputes and work stoppages, to strengthen the merit principle where civil service is in effect and to maintain a favorable political and social environment. The legislature declares that it is the public policy of the state to promote

an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in secs. 70 - 260 of this chapter;

(3) "labor relations agency" means the state personnel board with regard to the state and employees of the state, and means the Department of Labor with regard to all other public employees and all other public employers;

(4) "organization" means a labor or employee organization of any kind in which employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment;

(5) "public employee" means any employee of a public employer, whether or not in the classified service of the public employer, except elected or appointed officials or teachers or noncertificated employees of school districts;

(6) "public employer" means the state or a political subdivision of the state, including without limitation, a town, city, borough, district, board of regents, public and quasi-public corporation, housing authority or other authority established by law, and a person designated by the public employer to act in its interest in dealing with public employees;

(7) "terms and conditions of employment" means the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees; but does not mean the general policies describing the function and purposes of a public employer.

Sec. 23.40.260. SHORT TITLE. Secs. 70 - 260 of this chapter may be cited as the Public Employment Relations Act.

* Sec. 3. AS 09.43.010 is amended to read:

Sec. 09.43.010. ARBITRATION AGREEMENTS VALID; APPLICATION OF CHAPTER. A written agreement to submit an existing controversy to arbitration or a provision in a written contract to submit to arbitration a subsequent controversy between the parties is valid, enforceable and irrevocable, except upon grounds which exist at law or inequity for the revocation of a contract. However, this chapter does not apply to a labor-management contract unless it is incorporated into the contract by reference or its application provided for by statute.

* Sec. 4. This Act is applicable to organized boroughs and

political subdivisions of the state, home rule or otherwise, unless the legislative body of the political subdivision, by ordinance or resolution, rejects having its provisions apply.

* Sec. 5. AS 23.40.010 is repealed.

Chapter 1

- 1 • Sec. 11. Notwithstanding sec. 4, ch. 113, SLA 1972, a municipal school district or regional
2 educational attendance area may not reject application of AS 23.40.070 - 23.40.260 to employment
3 relations with public school employees.
- 4 • Sec. 12. This Act takes effect immediately under AS 01.10.070(c).

04/16/93
11:35:32

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL
WASTEBASKET

From: Mrs. Phyllis Dixon
2048 Bridgewater

Fairbanks AK 99709 Tel: 452-8678

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: I AM VERY MUCH OPPOSED TO HB 255. PLEASE DO NOT TAKE AWAY PUBLIC
EMPLOYEES RIGHT TO COLLECTIVE BARGAINING. PLEASE RESPOND.

Entered By: LIOCCHR on 4/16/93 PomID 13858 Distribution 8
MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4BÜ

LINE 1 COL 1

04/16/93
11:35:41

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL
WASTEBASKET

From: Mr. Bruce Buffmiere
900 Lathrop St.

Fairbanks AK 99701 Tel: 456-6072

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: I FEEL THAT THE SCHOOL DISTRICT SHOULD NOT OPT OUT OF PERA, AND WE
SHOULD NOT HAVE OUR COLLECTIVE BARGAINING AND RIGHT TO STRIKE TAKEN AWAY. BE
MORE REponsive TO YOUR CONSTITUENTS. PLEASE RESPOND.

Entered By: LIOCCHR on 4/16/93 PomID 13861 Distribution 8
MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4BÜ

LINE 1 COL 1

04/16/93
11.28:33

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mr. Carl Fox
Box 1124

Bethel AK 99559 Tel: 543-4064

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: PLEASE VOTE AGAINST HB 255.

Entered By: LIOCTLR on 4/15/93 PomID 13572 Distribution 7

MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4BÜ

LINE 1 COL 1

04/16/93
11:28:39

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mr. William McMonigle
Box 2263

Bethel AK 99559 Tel: 543-4278

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: PLEASE DON'T DENY ME OF MY RIGHT TO FAIR PROTECTION OF BARGAINING
UNDER PERA VOTE AGAINST HB 255.

Entered By: LIOCTLR on 4/15/93 PomID 13579 Distribution 12

MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

04/16/93
11:28:03

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mr. Robert John
Box 1335

Bethel AK 99559 Tel: 543-4228

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: PLEASE DON'T DENY ME MY RIGHT TO FAIR PROTECTION OF BARGAINING. VOTE
AGAINST HB 255.

Entered By: LIOCTLR on 4/15/93 PomID 13560 Distribution 7
MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4BÜ LINE 1 COL 1

04/16/93
11:28:08

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mr. Gary Hanson
Box 1857

Bethel AK 99559 Tel: 543-3751

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: VOTE AGAINST HB 255. DON'T STRIP ME OF MY RIGHTS TO BARGAIN
COLLECTIVELY.

Entered By: LIOCTLR on 4/15/93 PomID 13562 Distribution 7
MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

04/16/93
11:21:55

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mr. Ted Simmons
Box 1011

Bethel

AK 99559

Tel: 543-4237

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: CURRENT LAW GIVES ALL PARTIES INVOLVED EQUAL RIGHTS AND PROTECTION.
CHANGING THIS LAW WOULD DENY EMPLOYEES THEIR RIGHTS TO FAIR AND JUST PROTECTION
AND BARGAINING. PLEASE VOTE AGAINST HB 255. THANK YOU.

Entered By: LIOCTLR on 4/15/93 PomID 13553 Distribution 12
MSG: 98 TOTAL POMS SELECTED FOR VIEWING
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/16/93
11:22:17

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms. Carol Manumik
Box 386

Bethel

AK 99559

Tel: NONE

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: PLEASE DON'T DENY ME MY RIGHT TO FAIR PROTECTION OF BARGAINING.
PLEASE VOTE AGAINST HB 255.

Entered By: LIOCTLR on 4/15/93 PomID 13555 Distribution 12
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/16/93
11:22:41

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mr. Gary Vanass
Box 1544

Bethel

AK 99559

Tel: 543-3031

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: I URGE YOU TO VOTE AGAINST HB 255. I OPPOSE THE BILL BECAUSE IT DOES NOT GIVE FAIR RIGHT OF BARGAINING TO DISTRICT EMPLOYEES.

Entered By: LIOCTLR on 4/15/93 PomID 13557 Distribution 7
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/16/93
11:22:49

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mr. Dave Rose
Box 1287

Bethel

AK 99559

Tel: 543-2244

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: VOTE AGAINST HB 255.

Entered By: LIOCTLR on 4/15/93 PomID 13559 Distribution 7
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1