

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 80/2

9309 HOUSE LABOR & COMMERCE

HB

2017

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 207

Revision Date: _____

Department Affected: Labor

Title: Employer Drug Testing Program

BRU: Labor Standards & Safety

Sponsor: Representative Joseph Green

Component: _____

Requestor: House L&C

Wage & Hour Administration

COMPONENT SERIAL NO. 345

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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						
---------	--	--	--	--	--	--

CHANGE IN REVENUE FUND SOURCE #						
------------------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) Impact: \$ NONE

ANALYSIS: (Attach a separate page if necessary)

This legislation will have no effect on Wage and Hour programs, nor any fiscal impact, as we are not named in any oversight or enforcement capacity.

Prepared by: Alan W. Dwyer, Director *[Signature]* Phone: 465-4855
Division: Labor Standards & Safety Date: 3/26/97

Approved by Commissioner: Tom Cashen, Commissioner *[Signature]*
Agency: Department of Labor Date: 3/26/97

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ALASKA STATE LEGISLATURE
House of Representatives

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SESSION:
STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE: (907) 465-4568
FAX: (907) 465-2040

Representative Norman Rokeberg

JUST THE FAX

Date: 4/7/97

TO: LAA Legal / Jerry Cramer

FAX: 2029 Telephone 2450

FROM: Representative Norman Rokeberg

FAX: (907) 465-2040 Telephone: (907) 465-4968

Number of Pages: 7 (including this page)

Comments: Per our conversation: Attached
are amendments adopted by the
HL+C on Friday 4/4/97. Amend #5
was amended as noted. Please start
preparing a HL+C CS. We now have 1 more
amendment. Would like to have you
start on this now for next floor session
(tomorrow)

*Shelby
Sturdy*

Have A Nice Day

*Robbery
moved.
adopted*

AMENDMENT #1

OFFERED IN THE HOUSE

TO: HB 207

1 Page 3, Line 23, following "used"

2 Insert ", including an employee's right to a confirmatory drug test to be
3 reviewed by a licensed physician or doctor of osteopathy after an initial
4 positive drug test result in accordance with AS 23.10.640(d)"

5
6

7 Page 6, line 2, following "."

8 Insert "An employer may not rely on a positive drug test unless the
9 confirmatory drug test results have been reviewed by a licensed physician or
10 doctor of osteopathy. The physician or osteopath shall

11 (1) contact the employee, within 48 hours, and offer an
12 opportunity to discuss the confirming test result;

13 (2) interpret and evaluate the positive drug test results for
14 legal use;

15 (3) report test results that have been caused by prescription
16 medication as negative."

A M E N D M E N T

#1 Hudson
voted
adopted

OFFERED IN THE HOUSE

TO: HB 207

- 1 Page 4, line 24, following ".":
- 2 Insert "An employer may not initiate a testing program under AS 23.10.600 -
- 3 23.10.699 until at least 30 days after the employer notifies employees of the employer's intent
- 4 to implement the program and makes written copies of the policy available as required by (a)
- 5 of this section."

*Hudson
would
adopted*

AMENDMENT #3

OFFERED IN THE HOUSE

TO: HB 207

1 Page 3, line 28, following "results":

2

3 Insert ", and the obligation of the employer to provide written test

4 results to the employee within five working days of a written request to do so,

5 provided the written request is made within six months of the date of the test"

AMENDMENT #4

*Cowley
moved
adopted*

OFFERED IN THE HOUSE

TO: HB 207

1 Page 3, line 30, following ";;":

2

3 Insert ", if the employee requests an opportunity to explain the positive
4 test result within 10 working days after the employee is notified of the test
5 result, the employer must provide an opportunity, in a confidential setting,
6 within 72 hours of receiving ^{employees} written notice, or prior to taking adverse
7 employment action.

*inserts
amend
and*

AMENDMENT #5

*Cowley
Moved
Adopted
as amended*

OFFERED IN THE HOUSE
TO: HB 207

- 1 Page 5, line ~~10~~¹¹, following "employees"
- 2 Insert "and prospective employees"
- 3 Page 5, line 13, Delete the sentence beginning with "An employer is not..."
- 4
- 5
- 6
- 7 Page 5, line 28, following "by the"
- 8 Delete "United States Department of Health and Human Services"
- 9 Insert "Substance Abuse and Mental Health Services Administration"
- 10 ~~(SAMHSA)~~
- 11
- 12
- 13
- 14 Page 5, line 29, following "American Pathologists"
- 15 Insert ", American Association of Clinical Chemists"
- 16
- 17
- 18
- 19 Page 5, line, 31, following "use of a different"
- 20 Delete "chemical"
- 21 Insert "analytical"
- 22
- 23
- 24
- 25 Page 6, line 2, before "chromatography mass spectrometry."
- 26 Insert "gas"

AMENDMENT #6

*Conceding
Mailed
adopted*

OFFERED IN THE HOUSE
TO: HB 207

- 1 Page 3, line 2, following "...is voluntary."
- 2 Delete "A person may..." to "...23.10.699."

Apr-07-97 02:52 PM

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
2029	OK	07	Sent	Apr-07	02:50P	00:02:27	002485030022

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 21, 1997

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 4/7/97

The LABOR AND COMMERCE Committee considered:

HB 207

HOUSE BILL NO. 207

EMPLOYER DRUG TESTING PROGRAM

"An Act relating to employer drug and alcohol testing programs."

recommends it be replaced with the following committee substitute CS HB 207 (LTC) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) Labor zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Bill Hudson</i>			✓	
<i>Joe Ryan</i>	✓			
<i>Gene Kishner</i>				X
<i>Mark Beine</i>			✓	
<i>John Cuccinelli</i>			✓	
<i>Ann Kately</i>	✓			

CHAIR'S SIGNATURE *Ann Kately* 4/7/97



Allvest Laboratories, Inc.

341 West Tudor Road, Suite 106 Anchorage, Alaska 99503

Phone (907) 563-8378

Fax (907) 563-8380

April 7, 1997

APR 08 1997

Labor and Commerce Committee
Representative Norm Rokeberg, Chairman
State Capital
Juneau, Alaska 99801

Dear Representative Rokeberg:

Thank you for allowing me the opportunity to speak before the Labor and Commerce committee last Friday April 4. As I indicated then, your continued support is needed in passing House Bill 207 " An Act relating to employer drug and alcohol testing programs". As you are aware on March 21, 1997, Representative Joe Green introduced House Bill (HB) 207. This Bill, when it becomes law, will establish guidelines for employer policies and limit an employer's liability from litigation resulting from a positive test result.

This is great news for Alaskan employers and employees! This legislation will greatly reduce an employer's liabilities from drug and alcohol testing, resulting from a positive test result. For the employee, this legislation helps protect them by establishing company policy and standardized procedures for testing. This bill is not a mandatory statute. however, if an employer wants the protection of the statute, then the steps to follow are easy.

- Have a written policy
- Use a U. S. Department of Health and Human Services, College of American Pathologist certified laboratory
- Use established collection procedures that protect against misidentification of the donor's sample
- Establish means for confidentiality of test results
- Use a physician for review of positive test results

"Enhancing employee safety, productivity, and efficiency through drug testing."

I urge you and the other Labor and Commerce members to move quickly and refer HB 207 to Judiciary. Then your assistance is needed again to follow this legislation through to make sure this important legislation is passed into law this session.

Thank you for your assistance. If you have additional questions do not hesitate to contact me.

Sincerely,

ALLVEST LABORATORIES, INC.



Matthew T. Fagnan
President

CC/ Rep. Joe Green

Headquarters:
217 2nd Street, Suite 201
Juneau, Alaska 99801
(907) 586-2323 FAX 463-5515



April 4, 1997

Representative Joe Green
Alaska State Legislature
State Capitol
Juneau, AK 99801

RE: HB 207, Employer Drug and Alcohol Testing Programs

Dear Representative Green:

Thank you for introducing House Bill 207, regarding employer drug and alcohol testing programs. This is a much needed piece of legislation, and it has the support of our membership.

Employers who have established alcohol and drug testing programs, either to reduce their business liability or because of state or federal regulations, find themselves at risk of being sued over testing methods or results, or any disciplinary procedures resulting from a test. HB 207 reduces the liability for employers.

Other positive elements of this legislation are:

- Minimum requirements for a company's policy on a drug and alcohol testing program are delineated, which provides safeguards for both the employees and the companies.
- Basic requirements for testing procedures are provided, thereby standardizing procedures.
- Although the statute will not be mandatory, it does offer an employer the protection of the statute, should the employer choose to participate.

We believe HB 207 will help improve safety in the work place, while providing protection for those who strive for a safer work place.

Sincerely,

A handwritten signature in cursive script that reads "Pamela La Bolle".

Pamela La Bolle
President

cc: House Labor and Commerce Committee

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**THE ALLIANCE**

4220 'B' Street, Suite 200 • Anchorage, Alaska 99503-5911
 Phone (907) 563-2226 • Fax (907) 561-8870

April 4, 1997

APR 04 1997
 3:35 pm

Representative Norm Rokeberg
 Alaska State Legislature
 State Capitol (MS 3100)
 Juneau, AK 99801-1182

RE: Alliance Supports House Bill 207

Dear Representative Rokeberg,

The Alaska Support Industry Alliance (The Alliance) is a non-profit trade association whose 300+ member companies provide the majority of support services for oil and gas exploration, production, transportation, refining and marketing. Our mission is to foster and promote the safe and environmentally sound development of natural resources and to enhance and stimulate the business climate for our membership.

The Alaska Support Industry Alliance Board of Directors *strongly supports* House Bill 207, "An Act relating to employer drug and alcohol testing programs".

This legislation will greatly reduce an employer's liabilities from drug and alcohol testing, resulting from a positive test. Further, this legislation protects employees by establishing company policy and standardized procedures for testing. This bill, while not mandatory, allows an employer the protection of the statute when specific steps outlined are followed.

We encourage support and passage of this important legislation.

Sincerely,

John Wheatley
 Vice President - Policy

cc: Members, House Labor and Commerce:
 Representatives Cowdery, Hudson, Sanders, Ryan, Brice, Kubina

STEPHAN'S

APR 04 1997

TOOL RENTAL & SALES, INC.

9760 OLD SEWARD HIGHWAY
ANCHORAGE, ALASKA 99515

PHONE: (907) 349-4425

FAX: (907) 349-9683

DATE: 4/4/97

ATTENTION: Norm Rokberg

COMPANY: _____

FAX NO. 907 465-2040

PAGE ONE OF _____

FROM:

MESSAGE:

We are in support of HB207

Don Big

12:45 p.m.
APR 04 1997**Medical Specimen Services, Inc.**4141 B Street, Suite 206 • Anchorage, AK 99503
(907) 563-8656 • (Fax) 562-2051

HB 207

April 4, 1997

To: Rep. Norman Rokeburg
L & C
Fax: 907-465-2040

From: Ronald Jordan

REF: HB 207 Drug and Alcohol testing

We will support this bill provided that an addition is made to Sec. 23.10.620 Employer Policy page -3- part (b) The written policy To include a part;

(11) that would include a Licensed MD or DO. to review the results of a positive drug test with the employee. And if the positive is not for the use of a legal drug the results of the drug test to be reported to the employer.

We have talked to Rep. Greens office about this. If this or most any version of this is added to the bill we will support this. The reason that this is needed is because of Opiates found in the legal us of drugs under a MD's, DO's and Dental care.

Also U.S. Customs has said that 10% of the poppy seeds that come into United States are not washed and may contain traces of opiates. A trained MD, or DO can determine this and therefore save the employee and the employer alot of legal expenses.

We will try to be at the teleconference at 3:15pm today.

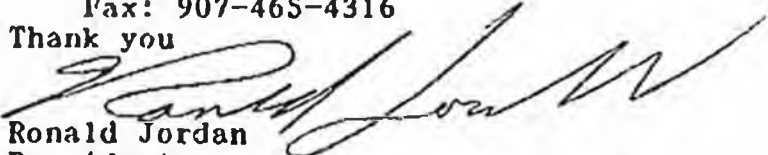
We also support this bill for the following reasons. We started this business in 1990. From 1990 until present and have been working with Alaskan business that would like to have drug free workplaces.

In that time we have identified an average of 14% positive rate for illegal drugs on pre-employment basis. Post accident testing has shown a positive rate of 27% for some business. Random testing has shown a reduction of accidents and therefore lower workmans comp rates.

Other Alaskan business would like to have drug free workplaces are concerned with state and federal laws and guidelines. If Alaska had at least guidelines for drug free workplaces many business would start. Therefore reducing drugs in the workplace.

CC: Rep. Green
Fax: 907-465-4316

Thank you


Ronald Jordan
PresidentAlcohol & Drug Abuse Collections • Program Consultations
Meets D.O.T. Guidelines

MAR 25 1997

Alaska State Legislature

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FINANCE SUBCOMMITTEES:
DEPT. OF COMMERCE & ECONOMIC
DEVELOPMENT
ALASKA COURT SYSTEM

Representative Joe Green
District 10

TO: Representative Norman Rokeberg, Chairman
House Labor & Commerce Committee

FR: Representative Joe Green

RE: HB 207 - Alcohol free/Drug free workplace programs

DATE: March 25, 1997

=====

I have introduced HB 207, relating to alcohol free and drug free workplace programs, and would appreciate a hearing in your committee.

HB 207 is based on CSHB 522 (HESS), which you heard last year as a member of the HESS Committee, with a few modifications designed to solve problems identified in public testimony.

The bill has been referred to the Labor & Commerce and the Judiciary Committees. If you could see your way to schedule it soon, I will have time to hear it in the Judiciary Committee, and hopefully, move it to the floor and get it to the other body this session.

*AK Chamber for
State Chamber for
Doh - took out last year language
that created opposite
ACLU - opposed
almost - supports
on HESS last year*

Alaska State Legislature

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CHAIRMAN, JUDICIARY COMMITTEE
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FINANCE SUBCOMMITTEES
OFFICE OF COMMERCE & ECONOMIC
DEVELOPMENT
ALASKA COURT SYSTEM

Representative Joe Green
District 10

Sponsor Statement

HB 207 - Drug and Alcohol Testing Programs

Problem: The use of psychoactive drugs--including alcohol, prescription and over-the-counter drugs--may affect safety and productivity in the workplace. To address these concerns, many employers have instituted alcohol and drug use testing programs. Though more than 53,000 Alaskans are being tested, there is no state policy establishing test guidelines for employers or employees.

Solution: HB 207 establishes guidelines for employers to voluntarily test employees and prospective employees for drug or alcohol use. HB 207 does not mandate drug or alcohol testing. Instead it provides employers who comply with the provisions of the bill limited immunity from litigation. Specifically, a civil action could not be filed against an employer who complies with the new law for: a) actions taken in good faith as a result of a positive drug or alcohol test; b) failure to test for drugs or alcohol, or failure to test for a specific drug; c) failure to detect a specific drug; or, d) terminating or suspending a drug or alcohol prevention program or policy.

HB 207 establishes a policy stating that prevention programs should be implemented in a fair, consistent, and equitable manner with due consideration of the rights, responsibilities, and privacy interest of all concerned parties.

The benefits that could accrue from this legislation are: a) early identification of drug or alcohol abuse, which could reduce the tragic consequences of injury to the user, co-workers, and/or family of the user; b) a more profitable and safer business environment by reducing the mistakes, poor performance, and accidents associated with drug and alcohol abuse; and c) fewer legal actions filed against employers who may terminate drug and alcohol abusers.

I would appreciate your support of HB 207.

cc:Mail for: Representative Norman Rokeberg

Subject: HB207

From: rbailey@Alaska.NET at CC2MHS1 4/2/97 3:51pm

To: Representative Norman Rokeberg at LAA_TRANS

cc: Representative Joe Green at LAA_TRANS

Norm,

I wanted to drop you a note in support of HB207. As an employer of drivers with CDL's, Alaska Distributors Co. is very concerned about the liability involved with mandatory drug testing. HB207 will do a great deal to protect the responsible employer. Please support this bill.

Bob Bailey
Operations Manager
Alaska Distributors Co.

APR 03 1997



ALASKA COUNCIL ON
PREVENTION OF
ALCOHOL AND DRUG
ABUSE, INC.

3333 DENALI STREET
SUITE 201

ANCHORAGE, ALASKA
99503

PHONE
907-258-6021

STATEWIDE
800-478-7738

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907-258-6052

E-MAIL
prevent@alaska.net

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Post-It® Fax Note	7671	Date	Apr. 1 7	# of pages	▶
To	Kip Joe Green	From	William M		
Co./Dept.	St. Capitol	Co.	AK Council		
Phone #	465-4931	Phone #	258-6021		
Fax #	465-4316	Fax #	258-6052		

Hard Copy to Follow

April 2, 1997

Representative Joe Green
State Capitol Building
Room 118
Juneau, AK 99801

Dear Rep. Green:

Greetings! This letter concerns HB 207—an Act relating to employer drug and alcohol testing programs. On behalf of the Alaska Council on PREVENTION of Alcohol and Drug Abuse, I would like to provide some information which hopefully will assist in the decision-making process.

- Alcohol and other drug use costs American businesses an estimated \$102 billion every year in lost productivity, accidents, employee turnover, and related problems.
- Drug users at a minimum consume almost twice the medical benefits as non users, are absent 1.5 times as often, and make more than twice as many workers' compensation claims.

A drug-free workplace reduces employee absenteeism, tardiness, discipline problems, and workers' compensation costs. Improvements include customer satisfaction, productivity, employee morale and motivation.

This bill's passage would greatly reduce the employer's liability from positive drug and alcohol tests. Therefore, more companies may chose to drug test their employees. Through the procedures outlined in HB 207, an employer can establish a clear drug testing standard while promoting a safe and drug-free working environment.

I am enclosing "Making Your Workplace Drug-Free: A Kit for Employers" for your review. Please don't hesitate to call me with your feedback or comments. I can be reached at (800) 478-7738.

Thank you for your time and attention to this important matter.

Respectfully,

Joseph DiMatteo
Executive Director

enc: Making Your Workplace Drug-Free: A Kit for Employers, SAMHSA

David T. Perkins
Alaska Region Manager



P.O. Box 196168
Anchorage, AK 99519-8168
Telephone 907/564-6400
Fax 907/564-6489
E-mail: perkins@moc.ibmmail.com

APR 09 1997

April 9, 1997

via fax

The Honorable Norm Rokeberg
Alaska State Legislator
State Capitol
Juneau, AK 99801-1182

Dear Mr. Rokeberg:

Marathon Oil Company supports the intent of House Bill 207.

Sincerely,

A handwritten signature in cursive script that reads "David T. Perkins".

David T. Perkins

DTP:kgb

cc: Representative Joe Green
Joe Hayes - Lobbyist
Matthew Fagnani - Alvest



General Teamsters Local 959 State of Alaska

Affiliated with the International Brotherhood of Teamsters


ANCHORAGE, ALASKA 99504, 4350 BONIFACE PKWY. (907) 269-4122 FAX (907) 337-6653 GERALD L. HOOB Secretary/Treasurer

FAIRBANKS, ALASKA 99707, P.O. Box 70609, (907) 452-2959 FAX (907) 452-5051
JUNEAU, ALASKA 99801, 306 Willoughby, (907) 586-3225 FAX (907) 536-1227

April 7, 1997

MEMORANDUM

To: Jeff Logan, Staff to Representative Green

From: Barbara Huff Tuckness 
Director Legislative and Government Affairs

Subject: House Bill 207

The following are additional amendments which we propose to HB 207:

1. Section 23.10.620(b) - Policy should include a requirement that all supervisors be properly trained to recognize reasonable suspicion situation.

Additionally, reasonable suspicion should be defined under Section 23.10.699 (see attached).

2. Section 23.10.620(b) - The Policy should require an evidentiary quality test. It should list those substances to be tested, and should follow those protocols valid for drug testing in accordance with 49 CFR 40, including testing levels. There are five drugs, marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP), that under federal rules, employers are required to test for. If testing for other drugs, federal rules require a separate sample for this purpose. Currently, there are no protocols or positive thresholds for drugs beyond the five. .

3. Section 23.10.629(d) - This section addresses random testing. If this bill is applicable to public and private sector employees, there is a different standard used regarding privacy. Possibly add the following to this section:

... as required or allowed by law."

You may wish to check with your legal to see if any other provisions of this bill would raise a question.

4. Section 23.10.670 - Collective bargaining - delete entire section.

5. Section 23.10.680 - Effect of mandatory testing obligations. The State of Alaska, to the best of our knowledge, does not have or require any mandatory testing. Should State be included? If so, could the State be in conflict with federal law?

Additionally, as I mentioned at the hearing on Friday, under this bill, who decides if the employer followed provisions of the policy as of the referenced statute? Would the employer still end up in court or is there a third party set up to resolve a claim?

Your time and effort spent in working with us to resolve these concerns has been greatly appreciated.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 26, 1997

SUBJECT: Sectional Summary of HB 207. (Employer drug and alcohol testing program)

TO: Representative Joe Green
Attn: Jeff Logan

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 adds new sections to the labor laws of the state, relating to drug and alcohol testing by employers.

Sec. 23.10.600 offers protection from an action for damages based on drug or alcohol impairment testing to employers who have established a drug and alcohol testing policy and initiated a testing program that complies with AS 23.10.600 - 23.10.699. Under subsection (b), an employer who acts based on a false positive test that the employer knew or clearly should have known was in error and who ignored the true test result because of reckless or malicious disregard for the truth or because of a wilful intent to deceive or be deceived would be liable to a person damaged by the employer's action.

Subsection (c) sets out a rebuttable presumption that applies to claims that allege that an employer acted on a false positive test result. Under the presumption, the test result is presumed to have been a valid test result if the employer complied with AS 23.10.600 - 23.10.699 concerning drug tests. If an employer relied on a false positive test result reasonably and in good faith, the employer is not liable for monetary damages.

Subsection (d) prohibits actions for damages against employers for actions related to false negative drug tests or alcohol impairment tests. Subsection (e) prohibits actions against employers based on failure to establish a substance abuse prevention program or drug or alcohol testing.

Representative Joe Green

March 26, 1997

Page 2

Sec. 23.10.610 places limits on causes of actions against employers with testing programs that comply with AS 23.10.600 - 23.10.699 for disclosures of test results. Employers may not be sued for defamation of character, libel, slander, or damage to reputation unless the elements of the action are satisfied and the disclosure was of a false positive test and was made negligently.

Sec. 23.10.615 provides that an employer does not have to have a drug or alcohol impairment testing program and may not be sued if the employer has a program that does not comply with AS 23.10.600 - 23.10.699.

Sec. 23.10.620 sets out the requirements for a written policy. Compliance with these requirements will result in employers being granted the protections offered under AS 23.10.600 - 23.10.699. The employer must have a written policy on testing that meets the listed requirements of subsection (b) and must inform employees and prospective employees of the policy. Subsection (c) states that under the policy, an employer may require testing for any job-related purpose. Subsection (d) permits employers to require random or chance testing. Subsection (e) requires employers to identify employees or positions subject to testing. The policy must require an employer to test all or part of the work force, based on safety considerations.

Sec. 23.10.630 permits an employer to require drug tests, to require individuals to present reliable identification to the person collecting the sample, and to designate the type of sample to be used (AS 23.10.699 defines "sample" as urine or breath). Subsection (c) addresses scheduling (normally during or immediately before or after work) and requires the employer to compensate employees for the time spent. Subsection (d) requires the employer to pay the actual cost of testing required of employees and to pay reasonable transportation costs if transportation is conducted off the work site. An employer is not required to pay drug testing costs for prospective employees.

Sec. 23.10.640 addresses testing procedures, requires reasonable and sanitary conditions, documentation, an opportunity for the person tested to provide relevant medical information, procedures that preclude the possibility of contamination, adulteration, or misidentification, and compliance with scientifically accepted analytical procedures. Under subsection (d), drug testing for employees must include confirmation of a positive test result using a different chemical process. The confirmatory drug test must be a chromatography mass spectrometry.

Sec. 23.10.650 permits employers to take adverse employment action (examples are given in subsection (b)) if an employee refuses to take a drug or alcohol test, if a prospective employee refuses to take a drug test, or if either an employee or prospective employee tests positive and the results indicate a violation of the employer's written policy.

Representative Joe Green

March 26, 1997

Page 3

Sec. 23.10.660 requires that communications concerning drug tests or alcohol impairment tests be kept confidential and makes the documents privileged communications. There are exceptions to the prohibition against disclosure for disclosure to the tested person and to individuals that the employer designates to receive and evaluate the results, and as ordered by a court or a government agency.

Sec. 23.10.670 provides that an employer who complies with a drug or alcohol impairment testing policy that is negotiated as part of a collective bargaining agreement is entitled to the protections of AS 23.10.600 - 23.10.699 even if the bargained policy differs from AS 23.10.600 - 23.10.699.

Sec. 23.10.680 grants the protections of AS 23.10.600 - 23.10.699 to employers who are required by state or federal law to have a drug testing or alcohol impairment testing policy so long as the employer complies with the applicable requirements imposed under that federal or state law.

Sec. 23.10.699 defines words and phrases used in AS 23.10.600 - 23.10.699.

TC:jdr:pl
97-222.jdr

HB

208

FISCAL NOTE

APR 04 1997

2:10pm sl

**STATE OF ALASKA
1997 LEGISLATIVE SESSION**

BILL NO. HB 208

Revision Date: April 3, 1997
 Title: An Act relating to the board of directors of the Alaska
 Aerospace Development Corporation
 Sponsor: Representative Austerman
 Requestor: House Labor and Commerce

Department: Commerce and Economic Development
 BRU: AK Aerospace Development Corporation
 Component: AK Aerospace Development Corporation
 COMPONENT SERIAL NO. 1424

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL	10.0	10.0	10.0	10.0	10.0	10.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	10.0	10.0	10.0	10.0	10.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES						
---------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
1101 AADC Fund Receipts	10.0	10.0	10.0	10.0	10.0	10.0
TOTAL	10.0	10.0	10.0	10.0	10.0	10.0

Estimate of any current year (FY 97) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This legislation will directly impact AADCs operating budget by an increase of approximately \$10,000 annually. The increase is due to additional out-of-state travel costs as well as increase honorarium expenses.

Prepared by: Laura L. Gould, Business Manager
 Division: Alaska Aerospace Development Corporation
 Approved by Commissioner William L. Hensley
 Agency: Commerce and Economic Development

Phone: (907)561-3338
 Date: April 3, 1997
 Date: April 3, 1997

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FISCAL NOTE

No. 1
 Bill Version: CSHB 208(L&C)
 (H) Publish Date: 4/9/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: April 7, 1997
 Title: An Act relating to the board of Directors of the AK Aerospace Develop. Corp
 Sponsor: Representative Austerman
 Requestor: House Labor & Commerce

Department Affected: Commerce & Economic Develop
 BRU: AK Aerospace Development Corp.
 Component: AK Aerospace Development Corp.
1424

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND SOURCE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

The House Labor & Commerce Committee voted to zero out the fiscal note. The committee feels that travel should be covered within the Department's budgeted travel accounts.

Prepared by: Shirley L. Armstrong House Labor and Commerce Committee Phone: 465-4954
 Division: Shirley L. Armstrong, Staff House Labor & Commerce Date: 4/9/97

Approved by: Shirley L. Armstrong Representative Norman Rokeberg, Chair
 Agency: House Labor and Commerce Committee Date: 4/9/97

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov., & Impacted Agency(ies).

AMENDMENT /

*moved to
amend adopted*

*amend
adopt*

OFFERED IN THE HOUSE

BY REP. Kubina

TO HB 208

Page 2, line 16:

delete "public member" and insert ~~public~~ public school educator

*public
member*

*Moved w/zero
fiscal Note*

MAR 24 1997


REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

MEMORANDUM

DATE: March 25, 1997

TO: Representative Norman Rokeberg
Chairman, House Labor & Commerce Committee

FROM: Representative Alan Austerman
Chairman, House Special Committee on Fisheries 

SUBJ: Request for Scheduling - House Bill 208

I respectfully request that the House Labor & Commerce Committee schedule a hearing on HB 208 at your earliest convenience.

This bill would restructure the makeup of the Alaska Aerospace Development Corporation's Board of Director's. The appropriate statute, sponsor statement, and a comparison chart are attached for the committee.

Please contact Cliff Stone of my staff at 6588 as needed.



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

SPONSOR STATEMENT - HB 208

The Alaska Aerospace Development Corporation is a young organization that has vigorously pursued its responsibility to forge a new industry and new opportunities in Alaska. Its first task was to bring talented people with significant experience in the aerospace industry to Alaska as employees and consultants. Through their efforts the AADC has won federal contracts, generated significant industrial interest, and brought Alaska, international recognition as a potential center for this major growth industry. The probability for success is extremely high and the prospects for Alaska's economy are exceptional.

AADC's focus has been on two projects. The development of a rocket launch complex on Kodiak Island and the location of satellite ground stations in the Fairbanks area. AADC has also pursued educational opportunities throughout the state, as well as global warehousing and manufacturing possibilities in Anchorage.

The present board of directors of the AADC has served the State of Alaska extremely well, in directing the purposes of the corporation. The professional, technical and scientific expertise provided by the University of Alaska members of the board, have guided the start-up phase of this undertaking.

As we move into the construction, marketing and operational phase of this endeavor, it is imperative that the board be restructured to include specific members of the Alaska business community. These individuals should have experience in finance, marketing analysis and an understanding of economic development, based on their existing or previous participation in private enterprise.

This bill also adds another member who has special experience regarding federal regulatory procedures and policies involving space or operational experience. I feel this would lend more credence to the space industry and gives the board more expertise as we move into the operational phase.

In addition, this bill calls for the chair and vice-chair to be selected from among the board of directors of the corporation.



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

**PROPOSED CHANGES UNDER HB 208 TO:
AS 14.40.826(a)(b) - AADC BOARD OF DIRECTORS**

Existing Voting Member

Proposed Change

[U of A Board of Regents]
U of A President or designee
U of A Geophysical Institute
[ASTF Executive Director]
DCED Commissioner or designee
Aerospace or Commercial Space
Aerospace or Commercial Space
[U of A Faculty Member]
Public Member

Business Sector-state resident
U of A President or designee
U of A Geo. Institute or designee
Business Sector-state resident
DCED Commissioner or designee
Aerospace or Commercial Space*
Aerospace or Commercial Space*
Commercial Space
Public Member

[Deleted Text Bracketed]

New Text Underlined

*Those with Aerospace experience shall not exceed two.

Sec. 14.40.821. Creation and termination of corporation. (a) The Alaska Aerospace Development Corporation is created as a public corporation of the state. The corporation is a body corporate and politic located for administrative purposes within the Department of Commerce and Economic Development and affiliated with the University of Alaska but with a separate and independent legal existence.

(b) The corporation may not be terminated as long as it has bonds, notes, or other obligations outstanding. If the corporation is terminated, it shall be terminated in a manner that permits the University of Alaska and Poker Flat Research Range to continue their research and educational missions uninterrupted. (§ 2 ch 88 SLA 1991)

Sec. 14.40.825. [Renumbered as AS 14.43.305.]

Sec. 14.40.826. Board of directors. (a) The board of directors of the corporation consists of nine members appointed by the governor as follows:

- (1) one member of the Board of Regents of the University of Alaska;
- (2) the president or the designee of the president of the University of Alaska;
- (3) the director of the Geophysical Institute of the University of Alaska;
- (4) the executive director of the Alaska Science and Technology Foundation;
- (5) the commissioner of commerce and economic development or the commissioner's designee;
- (6) two members who have experience and understanding of the aerospace or commercial space industry, one of whom shall have a special emphasis in federal regulatory procedures and policy involving space;
- (7) one faculty member of the University of Alaska with research interests involving rockets or satellites;
- (8) a public member.

(b) The members of the board of directors of the corporation described in (a)(6) of this section may be nonresidents of the state. The term of the members described in (a)(1), (6), (7), and (8) of this section is four years and those terms shall be staggered.

(c) Members of the board of directors of the corporation described in (a)(6) and (8) of this section receive \$100 compensation for each day spent on official business of the corporation.

(d) In addition to the members of the board of directors described in (a) of this section, two members of the legislature shall serve as ex officio nonvoting members of the board of directors. The two ex officio nonvoting members shall include one member of the senate appointed by the president of the senate and one member of the house appointed by the speaker of the house.

(e) The voting and nonvoting members of the board of directors of the corporation are entitled to per diem and travel expenses authorized under AS 39.20.180. (§ 2 ch 88 SLA 1991)

Legislative history reports. — For legislative industry advisory board by the corporation, see 1991 letter of intent related to the appointment of an Senate Journal, page 1270.

Sec. 14.40.830. [Renumbered as AS 14.43.310.]

Sec. 14.40.831. Chair and vice-chair. The president of the University of Alaska or the designee of the president shall be the chair of the board of directors of the corporation. The commissioner of commerce and economic development or the designee of the commissioner shall be vice-chair of the board of directors of the corporation. The vice-chair presides over all meetings in the absence of the chair and has other duties the board of directors of the corporation may direct. (§ 2 ch 88 SLA 1991)

Sec. 14.40.835. [Renumbered as AS 14.43.315.]

Board of Directors
ALASKA AEROSPACE DEVELOPMENT CORPORATION

NAME

REPRESENTING

Dr. Jerome B. Komisar, President
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202 Butrovich Building
Fairbanks, AK 99775
Phone (907) 474-7311
FAX (907) 474-7570
E-mail: sypres@alaska.edu

University of Alaska (Chair)

Mr. William Hensley, Commissioner
Department of Commerce
State of Alaska
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E-mail: commissioner_hensley@commerce.state.ak.us

State of Alaska, Department of Commerce
and Economic Development (Vice-Chair)

Mr. William J. Paulick, Development Specialist**
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State of Alaska, Department of Commerce
and Economic Development

**Appointed by Hensley in his absence

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University of Alaska Board of Regents

NAME

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Aerospace/Commercial Space Industry

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Alaska State Legislature -- January - May
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BILL: HB 533 SHORT TITLE: ALASKA AEROSPACE DEVELOPMENT CORP. BOARD
BILL VERSION: CSHB 533(L&C) AM
SPONSOR(S): COMMUNITY AND REGIONAL AFFAIRS

CURRENT STATUS: (S) FIN

STATUS DATE: 04/24/96

TITLE: "An Act relating to the board of directors of the Alaska Aerospace Development Corporation."

02/28/96	2913	(H)	READ THE FIRST TIME - REFERRAL(S)
02/28/96	2913	(H)	LABOR & COMMERCE
03/18/96		(H)	L&C AT 03:00 PM CAPITOL 17
03/18/96		(H)	MINUTE(L&C)
03/20/96		(H)	L&C AT 03:00 PM CAPITOL 17
03/20/96		(H)	MINUTE(L&C)
03/22/96		(H)	L&C AT 03:00 PM CAPITOL 17
03/22/96		(H)	MINUTE(L&C)
03/25/96	3306	(H)	L&C RPT CS(L&C) 6DP 1NR
03/25/96	3306	(H)	DP: SANDERS, PORTER, KUBINA, ELTON
03/25/96	3306	(H)	DP: ROKEBERG, KOTT
03/25/96	3306	(H)	NR: MASEK
03/25/96	3306	(H)	ZERO FISCAL NOTE (DCED)
04/10/96	3679	(H)	RULES TO CALENDAR 4/10/96
04/10/96	3679	(H)	READ THE SECOND TIME
04/10/96	3679	(H)	L&C CS ADOPTED UNAN CONSENT
04/10/96	3679	(H)	ADVANCED TO THIRD READING UNAN CONSENT
04/10/96	3679	(H)	READ THE THIRD TIME CSHB 533(L&C)
04/10/96	3679	(H)	PASSED Y37 N1 E2
04/10/96	3680	(H)	MACKIE NOTICE OF RECONSIDERATION
04/12/96	3704	(H)	RECON TAKEN UP - IN THIRD READING
04/12/96	3704	(H)	RETURN TO SECOND FOR AM 1 UNAN CONSENT
04/12/96	3704	(H)	AM NO 1 OFFERED
04/12/96	3705	(H)	AM TO AM 1 ADOPTED UNAN CONSENT
04/12/96	3706	(H)	AM 1 AS AMENDED ADOPTED Y39 A1
04/12/96	3706	(H)	AUTOMATICALLY IN THIRD READING
04/12/96	3706	(H)	PASSED ON RECONSIDERATION Y40
04/12/96	3720	(H)	TRANSMITTED TO (S)
04/15/96	3237	(S)	READ THE FIRST TIME - REFERRAL(S)
04/15/96	3237	(S)	LABOR & COMMERCE, FINANCE
04/23/96		(S)	L&C AT 03:40 PM FAHRENKAMP RM 203
04/24/96	3490	(S)	L&C RPT 2DP 3NR
04/24/96	3490	(S)	PREVIOUS H ZERO FN (DCED)
04/24/96	3490	(S)	REFERRED TO FINANCE

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STATE OF ALASKA

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Juneau, Alaska 99801-2105

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

Mary Pagenkopf

House Labor and Commerce, 3/18/96, 3:12 p.m.
" " " , 3/22/96, 3:25 p.m.



Diagnosics

April 23, 1997

APR 25 1997

4:10pm JF

The Honorable Norman Rkokeberg
State Representative
State Capitol
Juneau, Alaska 99801-1182

RE: House Bill 208

Dear Representative Rkokeberg:

Roche Diagnostic Systems, Inc., a subsidiary of Hoffmann-La Roche, is dedicated to improving human health care by developing, manufacturing and marketing diagnostic test kits, reagents and analytical instrumentation used in hospitals, clinical laboratories, physicians offices, and in alternate sites as required to screen for substance abuse. The field of toxicology and specifically drug abuse testing is a specialty in which RDS has over twenty years' experience. Both Hoffmann-La Roche and RDS are strong proponents of a drug-free workplace and believe drug testing plays a vital role in the responsible management of the problem of drug abuse in the work setting.

Substance abuse affects each and everyone of us in one way or another. Businesses in particular, have a high exposure to substance abuse. Drug use in the workplace cause's high absenteeism, accidents and injuries, low productivity, high employee turnover, crime, reduced profits, and low employee morale.

It is estimated that the cost of employee substance abuse to businesses is \$75 billion, and contrary to everyone's belief, over 70% of the 11.5 million users of illicit drugs are gainfully employed. As it stands now, greater than 90% of the Fortune 500 companies in the US, drug test their employees. Public opinion supports drug testing and cold hard data indicates drug testing employees is an effective business management tool.

The proposed legislation in the State of Alaska would restrict employee drug testing to only certified laboratories. **House Bill 208** has been proposed to give employers legal protection against potential litigation only if the drug testing is performed by a certified laboratory. By definition, any employer electing the option of conducting preliminary drug screening on their premises will not be shielded from litigation. In this instance **House Bill 208** clearly discriminates against the small to medium sized businesses that cannot afford the higher cost of a laboratory test, however they wish to establish a drug-free workplace.

We respectfully request that sec. 23. 10. 640 (c), second sentence, be amended to read: **Confirmation** drug testing shall be conducted....." or similar language that

would allow an employer the option of utilizing an onsite drug test or a certified laboratory. The option of allowing the preliminary drug testing to be conducted onsite would give the employers of Alaska significant benefits. For example, negative test results can be resolved immediately without further consideration. The hiring of qualified personnel can be achieved immediately. Onsite drug testing would prevent operation of machinery under the influence immediately. It would uncover illegal and unsafe behavior immediately.

Currently, 40 plus states permit onsite drug testing. In this regard, Alaska's proposed law is at odds with the laws in the overwhelming majority of states nationwide, and is prohibitive of an industry practice which is increasingly **common, useful, and appropriate** for screening purposes, and essential for many safety-sensitive positions. Most recently in 1995, the State of North Carolina revised legislation to permit onsite preliminary drug screening. To this date there has been no evidence of employers misusing the application of onsite testing in the State of North Carolina. In fact, more small to medium employers who previously could not afford to drug test, now test their job applicants. In addition, the State of Oregon has legislation pending that would permit onsite drug testing. According to the Bureau of Labor Statistics, 80% of the workforce in the US is employed by small to medium size businesses and only 3-5% of these employers drug test. Onsite drug testing is more cost-effective for these employers and would allow them to maintain a safe working environment to the same standards as Fortune 500 companies. Employers must have the option of how and where their preliminary drug testing is to be conducted. **Passing House Bill 208 without amending the language to allow onsite drug testing would have a chilling effect on the small to medium business community.**

In conclusion, Roche is a firm supporter of a drug-free workplace and believes the first step in helping to solve the problem is through recognition. The States effort to introduce **House Bill 208 with the option for onsite testing** will further allow employers of Alaska the opportunity to achieve higher levels of productivity, gain a more competitive position in the market place, and provide a safe working environment for all employees. This is a goal we fully support.

On behalf of Roche Diagnostic Systems, Inc., I want to thank you for your consideration and the opportunity to present our position and concerns for **House Bill 208**.

Sincerely,



Robert L. Aromando, Jr.
International Marketing Manager

HOUSE COMMITTEE REPORT

(7)
 Date Referred to Committee: March 24, 1997 FURTHER REFERRALS:

Date of Committee Action: 4/7/97

The LABOR AND COMMERCE Committee considered: HB 208

HOUSE BILL NO. 208 ALASKA AEROSPACE DEVELOPMENT CORP. BOARD

“An Act relating to the board of directors of the Alaska Aerospace Development Corporation.”

recommends it be replaced with the following committee substitute CSHB208(LAC) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) CCM fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>John Anderson</i>			✓	
<i>Denny Santler</i>	✓			
<i>Alena Kubina</i>	✓			
<i>Joe Ryan</i>	✓			
<i>John Bruce</i>			✓	
<i>Nan Kotchy</i>	✓			
<i>Bell Hudson</i>	✓			

CHAIR'S SIGNATURE *Nan Kotchy* 4/7/97

HB

2009

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 209

Revision Date: _____
 Title: Project Labor Agreements on
Public Construction
 Sponsor: Representative Alan Vezey
 Requestor: House L&C

Department Affected: Labor
 BRU: Labor Standards & Safety
 Component: _____
Wage & Hour Administration
 COMPONENT SERIAL NO. 345

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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						
---------	--	--	--	--	--	--

CHANGE IN REVENUE						
FUND SOURCE #						

FUNDING:

(Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: \$ NONE

ANALYSIS: (Attach a separate page if necessary)

This legislation will have no effect on Wage and Hour programs, nor any fiscal impact, as we are not named in any oversight or enforcement capacity. The existence or lack of project labor agreements has minimal impact on the enforcement of the Prevailing Wage or Employment Preference programs.

Prepared by: Alan W. Dwyer, Director *Alan W. Dwyer* Phone: 465-4955
 Division: Labor Standards & Safety Date: 3/27/97

Approved by Commissioner: Tom Cashen, Commissioner
 Agency: Department of Labor Date: 3/27/97

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Official Business

COMMITTEE:

HOUSE LABOR AND COMMERCE COMMITTEE

DATE: April 25, 1997

SIGN-IN

Subject of meeting:

HB 209 - PROJECT LABOR AGREEMENTS ON PUBLIC CONST.

PLEASE PRINT!
NAME

ADDRESS (MAILING) & (ZIP)

PHONE

REPRESENTING

DO YOU WANT TO TESTIFY?

NAME	ADDRESS (MAILING) & (ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Downa C. Willard	124 E. 7 TH AVE ANCHORAGE, AK 99501	(907) 2783641	NUMEROUS INDIV. - DUAL WORKERS & DISBORNE CONF	Y
John Bitney	326 4 TH St #504 Juneau	586-3587	Alaska Housing Finance Corp.	Y
Sam Kito III	3132 CHANNEL DR. Juneau	465-3904	ADOT & PF	Y
John Mackinnon	1114 GLACIER AVE Juneau	321-2047 586-3902	City/Borough Juneau	Y

TOTAL P.02

04-27-1997 09:39AM FROM 9074652267 TO 2040 P.02



INDUSTRIAL ELECTRIC

Industrial - Commercial Wiring / Energy Management

P.O. Box 10708
Fairbanks, AK 99710

20 February 1998

Representative Norman Rokeberg
Chairman, Labor and Commerce
Alaska State House of Representatives
State Capital
Juneau, Alaska 99801-1182

Dear Representative Rokeberg,

We request HB 209 to be passed by your committee. This bill has the potential to save the Alaska taxpayer millions of dollars in the future cost of public construction. Common sense and experience tell us that limiting who can bid or be employed on a project invariably leads to increased costs. There are myriad studies and results that prove Project Labor Agreements result in higher construction costs. The taxpayers pay for these added costs. HB 209 provides a level playing field for businesses, unions and everyone in need of a job. HB 209 heavily promotes the use of free, open and competitive bidding for public construction.

We are astute enough to realize that even if the Legislature passes HB 209 then Knowles most likely will veto it. His veto would be a slam against free, open and competitive bidding. It is our considered opinion that if Knowles is shown to be anti free, open and competitive bidding he then makes himself vulnerable next November. We say this from our experience with the voting for adoption of bylaws by the memberships of Chugach Electric and Matanuska Electric. When these two cooperatives offered bylaw amendments requiring competitive bidding, their memberships passed the amendments by an 80% margin. The combined membership of these two utilities is nearly 100,000 households. This translates to over 200,000 of the populace. A sample of public sentiment this large supporting free, open bidding should not be ignored. We believe that a little tweaking of HB 209 might provide the necessary impetus.

We would suggest the title of HB 209 be amended to read:

"An Act promoting free, open and competitive bidding by regulating the use of pre-hire project labor agreements for public construction projects by the state and political subdivisions of the state" (Or something similar in nature.)

02-2-98 10:17 REVD

Phone 907-457-7486



Fax 907-457-7487



Pager 907-474-3570



INDUSTRIAL ELECTRIC

Industrial - Commercial Wiring / Energy Management

P.O. Box 10708
Fairbanks, AK 99710

The present heading of HB 209 comes out as a simple attack on PLAs and therefore less palatable than our above suggestion. By attaching the connotation of free, open bidding, Knowles then must consider if he really is more against limiting competition which results in an increased burden on the taxpayer than he is for giving the labor unions exclusive rights to public construction money.

We hope you will find this letter valuable. We believe the passage of HB 209 is vitally necessary to the construction industry of our state.

If you need additional support on this issue please advise at your earliest convenience.

Very truly yours,

Chuck Eddington
President

Bill Statement

HB 209, an Act regulating the use of pre-hire project labor agreements for public construction projects by the state and political subdivisions of the state

The provisions of HB209 would affect Alaska Housing Finance Corporation by bringing public corporations under the definition of "state" on page 3, line 15 of the bill.

AHFC finances and administers public construction projects through lending programs of the corporation, the administration of federal housing programs such as the housing tax credit program, the HOME program, and the Senior Citizens Housing Development program. Additionally, AHFC owns and operates over 2,700 units of public housing on behalf of HUD which requires annual maintenance, renovation, and construction projects as part of our statutory mandate.

With issues in Alaska such as local hire and welfare reform, AHFC sometimes will encourage or help establish agreements for a construction project that provide job training opportunities for young people looking for an opportunity to break into the construction trades. The provisions of HB209, when practically applied, will either prohibit or make it extremely difficult to establish these kinds of agreements on projects either financed or administered by AHFC. Specifically, we are looking at the findings that are required on page 2, lines 8 - 23 in order to establish a pre-hire project labor agreement for a development.

There are a number of agreements that are part of past and current development projects that we would like to bring to your attention to illustrate our concerns.

In Fairbanks, we are seeking a federal grant called Youth Build for a job training agreement proposal modeled after numerous national demonstration projects including a HUD partnership with the United Brotherhood of Carpenters & Joiners and the International Brotherhood of Painters & Allied Trades:

- AHFC provides the job training site in the course of a renovation of the Golden Towers senior housing facility. The renovation falls under Davis-Bacon wage rates. The bid documents would award points to contract bidders who agree to employ the designated "pre-apprentices."
- The Fairbanks Private Industry Council is the actual contract administrator. Operating the

April 25, 1997

JTPA program, they recruit and provide general education and life skills training to recruits from low income households (below 50% of median income).

- The Fairbanks Training Coordinators Association, representing all the organized trades, provides the job training and journeyman supervision at the work site. The carrot to getting them on the work site is the additional financial support from the Youth Build grant. Successful pre-apprentices are guaranteed "direct entry" into full apprentice able trades upon completion of the Youth Build funded training.

In Anchorage, we are currently developing two projects that have agreements to use an apprenticeship program initiated by the Carpenter's Union Local 1281 and the Anchorage YMCA. The YMCA recruits young people into a job training program, with supervision provided by the Carpenter's. (A copy of a newspaper article illustrating how one young man participated in this program at one these projects is attached.)

Federal requirements for HUD funded projects provide that to greatest extent feasible, contractors for projects should hire locally. In other cases, AHFC awards additional points as part of competitive processes for special needs housing, senior housing, and low-income housing developments. Through these efforts, we are trying to create job training opportunities for young residents looking to improve their lives by securing employment in the building trades.

Under the provisions of HB209, AHFC would be required to enter a written findings, supported by clear and convincing evidence, that these kinds of agreements both "result in greater employment opportunities for state residents", and "will result in significant identifiable cost savings." The job training agreements we are using certainly provide employment for state residents, but it is fair to say that job training programs have a cost that is added to the project.

Another concern relates to the language found on page 2, lines 20 & 21. This provision seems to say that a project labor agreement could only be used when "the size and complexity of the project is significantly greater than public projects ordinarily constructed." Projects and developments financed and administered annually by AHFC range in cost from thousands to several millions of dollars. The language in this provision is ambiguous and could be construed to prohibit a project labor agreement from any project financed and/or administered by AHFC.

Again, with public policy objectives such as local hire and welfare reform, AHFC would like to continue to encourage and help develop project labor agreements that provide job training opportunities to young Alaskans. As such, we are opposed to the current provisions and language in HB209.

April 25, 1997

BUILDING A FUTURE



Shane Huntsbury says he's found new direction in life through a new carpentry apprenticeship program.

By TRACEY PILCH
Special to the Daily News



Shane Huntsbury greets the early morning with optimism. He gets dressed, says goodbye to his family and drives off to a construction site to begin work at 7. The day will be long, but he'll have his pride. Something he hasn't felt in a long time.

Just seven months ago, his life was filled with dead-end jobs, frustration and stress over where his next dollar would come from.

"I was working at a car wash, 14-, 20-hour days, and still coming up short," the 23-year-old recalls. "I was bored, we were poor. ... It was glumy."

That was before he enrolled in a community program that gave him the break he desperately needed. These days, he likes his job as a pre-apprentice carpenter, he likes himself, and he believes he has a future.

Carpentry program opens windows of opportunity

"I can see progress," he says with confidence. "Now when I work I have gain."

That's because an apprenticeship program initiated by the Carpenter's Union Local 1281 and the Anchorage YMCA is seeing to it. Focusing on self-esteem development, survival skills, strength-building and fundamental mathematics, the program was initiated by union representative Royce Rock, who teamed with YMCA director Ed Slater to give individuals in high-risk neighborhoods with low-income jobs an opportunity to work in construction and improve their lives.

By providing eight weeks of intensive classroom training, the program prepars participants to work as pre-apprentice carpenters and construction workers with journeyman carpenters on community-housing projects. Huntsbury is working on the Adelaide Housing Project on Ninth Avenue that is scheduled to open soon. It will make temporary housing avail-

Please see Page D-5, FUTURE

FUTURE: Carpentry program boosts esteem

Continued from Page D-1

able to low-income singles. Anchorage Neighborhood Housing Services is administering the renovation of the 72-unit complex being contracted through Davis Constructors and Engineers.

The Carpenter's Union supplied program participants with a set of tools that they couldn't otherwise afford.

"There was a need out there to help these kids go in the right direction," Rock says. "Most of them have never had that put out in front of them before. They gobbled it up so fast once they knew someone was interested in them, that someone cares."

After graduating from East High School in 1992, Huntsbury finished a year of college at the University of Alaska Anchorage with aspirations of having a desk job.

"But I just wasn't ready for college," he admits. So he moved with his wife, Tami, 20, to Fairbanks to work with his grandfather, a carpenter. "He taught me some shelving, cabinetmaking, remodeling ... basic carpentry."

"It runs in the blood," he says, adding that his father also is a carpenter.

His mention of his father is heavy-hearted.

"His left when I was 2 and stepped back into my life when I was 16," Huntsbury says. His relationship with his grandfather is far more positive. "He's the best friend I've got."

After almost a year, the couple returned to Anchorage because his wife was unhappy living in Fairbanks without friends or family. Shortly thereafter, their son, Timothy, 16 months, was born.

"I had to go where my responsibilities were," Huntsbury explains. "When I got married and had a son, my life changed. Before that I was irresponsible," he admits, attributing that behavior to two DWI charges that led to the loss of his driver's license.

"That's when jobs got scarce," he says, recalling how he grew weary of working odd jobs.

His irresponsibility, Huntsbury believes, also contributed to a strange twist of fate back in January when he was shot by a motorist in Anchorage. In a senseless tailgate chase, Huntsbury says, he stopped his car and got out to see why the driver of the vehicle behind him was following too closely. He remembers immediately spotting the gun in the man's hand.

"He shot me just below the chest," he explains. "I had cracked ribs and was hospitalized for three days. I went to work a week later," he says.

His irresponsibility, Huntsbury believes, also contributed to a strange twist of fate back in January when he was shot by a motorist in Anchorage.

Huntsbury decided not to press charges. "I thought about it and decided, what for? He was looking for trouble, and somewhere in there I was probably doing the same thing," he says frankly.

"The aggressions I suffered at work, I took elsewhere. It was coming home with me, too. I was hot-tempered, distant with my family, and I didn't have time or space to myself. There was never any time for me to do anything productive."

These days, productivity is a way of life for him. His bills are paid. There is enough food to feed his family, which now includes infant son Jackie. And his two-bedroom apartment in Mountain View is comfortable, a far cry from tight living arrangements with the in-laws.

"He's got a smile every time I see him," Rock says. "Now he's making \$11.79 an hour with a future."

He is part of something his life hasn't known before. A project. A purpose. Something that will begin and end with his wiry, able hands having had part in it.

"Most of the kids who came to us never knew how to finish something," Rock says. "Some had problems with the law."

Out of the 30 who applied for the program during the summer, only seven demonstrated enough commitment to show up for the training that involved about two months of eight-hour days without pay. But Huntsbury says the sacrifice was worth it.

"They gave us a choice. If you want it, here it is. All you have to do is show up," he says, adding, "Some people work three jobs if they have to. It just depends on how hard you want it."

Five people who completed training initially were put on the Adelaide job site, though four eventually quit either

for personal reasons or simply because they were ill-suited for the construction field. Either way, all who participated in the program benefited, Ed Slater says. "They have more knowledge and self-esteem now."

"The YMCA is so important," Rock says. "There are many programs out there teaching people how to get jobs, but not teaching them the necessary life skills."

The first program has laid the groundwork for what can be improved upon with the next group of participants.

"We've made mistakes and we've learned from them," Rock says. "It's working, and it's going to get better."

Slater plans to redesign the program to include more thorough screening, follow-ups and more on-the-job support.

Nearly 40 new applicants have applied to the second pre-apprenticeship program to run in January for another project, Brighton Park Housing, scheduled for construction in the spring. Rock says that while the Carpenter's Union will only be able to use 10 to 15 people, that's 10, 15 more that won't be on welfare.

"More programs like this are needed," says DeeJay Johannessen of the Anchorage Mutual Housing Association, sister agency to ANHS that contracted to manage the property. Preferential treatment was given to the contractor who chose to include this program during initial bidding, he says.

"It takes quite a commitment because it's not necessarily cost-effective. But we were dedicated, and it's provided a valuable resource for these kids. If you have entry-level skills, you can't support yourself on six dollars an hour."

Shane Huntsbury needs no reminding of that. A walk in the bank to cash his paycheck feels smoother nowadays. A visit through the grocery store checkout is less stressful. There are toys for his children.

His wife understands. "He's a better person. He's more confident," Tami Huntsbury says, gently cradling Jackie.

"He can take care of us now," she says, relieved to have more time with her children instead of worrying about working. "Now I can be a mom."

"It's the best thing other than my family," Huntsbury says of this opportunity.

As for what advice he'd give to others contemplating a similar window of opportunity, "I'd say jump through that window."

"There are no handouts, but this gives you a jump-start for a better life."



HB 209

MAY 05 1997

General Teamsters Local 959 State of Alaska

Affiliated with the International Brotherhood of Teamsters

ANCHORAGE, ALASKA 99504, 4300 BONIFACE PKWY (907) 269-4122 FAX (907) 337-6668 GERALD L. HOOD Secretary-Treasurer

FAIRBANKS, ALASKA 99707, P.O. Box 70609 (907) 452-2959 FAX (907) 452-5051
JUNEAU, ALASKA 99801, 306 Willoughby (907) 586-3225 FAX (907) 586-1227
KENAI, ALASKA 99611, P.O. Box 3150 (907) 283-4498 FAX (907) 283-8030

May 2, 1997

Representative Norman Rokeberg
State Capitol, Room 24
Juneau, AK 99801-1182

Re: HB 209 -
Project Labor Agreements on Public Construction Projects

Dear Representative Rokeberg:

On behalf of Teamsters Local 959 and our members in the construction industry, we strongly oppose HB 209. Project labor agreements (PLAs) are a special type of agreement used only in the construction industry. A PLA is unique in that it can guarantee Alaskan/Local hire through the provisions of a pre-hire agreement. This pre-hire agreement also enables the contractor to bid, with knowledge, of what their costs are going to be. They also assure a skilled work force through the union hiring halls, but do not preclude a contractor from using their employees, if available.

Through the provisions set forth in the PLAs, the basic terms and conditions are set forth with the contractor, and all of the subcontractors as well. A PLA also provides the public owner with a construction tool that is used by major private sector employers not only in this State, but around the country. These agreements have been endorsed by the U.S. Supreme Courts as advancing the purposes of the federal labor laws. To the best of our knowledge, utilization of PLAs on the public construction projects have not been found to violate state or local procurement policies which require the best qualified contractor at the lowest bid as determined by the particular public entity.

Within the State, the following public construction projects have been successfully done with a PLA, on time and under budget:

1. Riverbend School - Juneau
2. Gustavus Airport Haz Mat Cleanup
3. Lathrop High School - Fairbanks
4. Eielson High School - Fairbanks
5. Healy Clean Coal Project

May 2, 1997
Page 2

There have been numerous PLAs and Project Agreements used on private projects throughout the State of Alaska that ensured local hire and came in either under or at budget, solidifying the value of PLAs to the owners and contractors.

We strongly believe that where and when a public sector owner decides to utilize a PLA, they are in the best interest of the State and local communities. PLAs have been found to be the only legal way to assure local hire in our State. If this bill were to pass, this would be another blow against local hire in Alaska and would destroy PLAs on public construction projects.

We thank you for your time and consideration and urge you to not support this bill.

Sincerely,

TEAMSTERS LOCAL 959



Gerald Hood
Secretary-Treasurer

RUSSELL H. SCHWARTZ
4273 BIRCH LANE
FAIRBANKS, ALASKA 99709
(907) 456-7554
FAX: (907) 457-7554

2:40 pm
APR 25 1997

April 25, 1997

URGENT To: The following members of the Alaska State Legislature,

Rep. Norm Rokeberg	465-2040
Rep. John Cowdery	465-3879
Rep. Bill Hudson	465-2273
Rep. Jerry Sanders	465-3476
Rep. Joe Ryan	465-4588
Rep. Eric Croft	465-4419
Rep. Gene Kubina	465-3799
Rep. Al Vezey	465-3258

RE: HB209; "An Act relating to the use of pre-hire project labor agreements for public construction projects by the state and political subdivisions of the state."

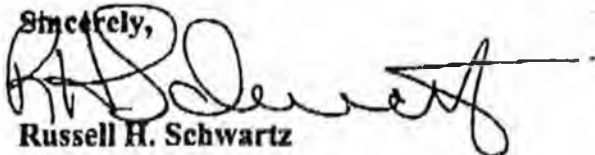
Gentlemen,

I am supporting HB209. I have been actively engaged in the construction industry for over thirty-five years. It is my experience that Project Labor Agreements on taxpayer funded projects are bad public policy. However, if a Project Labor Agreement can be shown to be in the best interest of Alaskans through clear and convincing evidence, as would be required by this bill, then I would not voice opposition.

Unrestricted, open-bidding procedures are the best way to serve the public. Project Labor Agreements by definition restrict those who would otherwise be qualified from bidding and force those with existing collective bargaining agreements to enter into agreements they did not participate in. Individuals who make their living in the construction industry are forced under restrictive Project Labor Agreements to give up their constitutional rights of equal protection, the right to freedom from forced association, the due process guarantee, and their right of equal access.

If we are to have Project Labor Agreements, let's have them as limited under HB209.

Sincerely,



Russell H. Schwartz

SHAREN WALSH LINFORD, P.E.

3141 WENDY'S WAY, UNIT B
ANCHORAGE, ALASKA 99517
(907) 248-8139
FAX: (907) 258-1514

April 25, 1997

APR 25 1997

URGENT To: The following members of the Alaska State Legislature,

Norm Rokeberg @ 465-2040
John Cowdery @ 465-3879
Rep. Bill Hudson @ 465-2273
Rep. Jerry Sanders @ 465-3476
Rep. Joe Ryan @ 465-4588
Rep. Eric Croft @ 465-4419
Rep. Gene Kubina @ 465-3799
Rep. Al Vezey @ 465-3258

RE: HB 209; "An Act relating to the use of pre-hire project labor agreements for public construction projects by the state and political subdivisions of the state."

Gentlemen:

I support this bill wholeheartedly. As a life-long Alaskan and as someone who makes their living in the Construction Industry, I must urge you to support this bill as well.

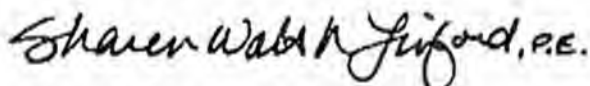
Alaska has long been known as the place where a person could make their way based on their own merits and on a strong work ethic. Project labor agreements, if improperly structured, take away this opportunity. PLA's can force companies and workers, against their will, to "pledge allegiance" and contribute funds to select organized labor groups and to abdicate many of their individual decision-making powers to the governors of these groups. They can also result in companies being forced to hire unknown union members ahead of long-time loyal employees, especially if all hires must be dispatched out of the union hall.

HB 209 provides for the prudent use of PLA's. It defines conditions under which a PLA can be used to the benefit of all. It assures that the public interest is served and retains the spirit of unrestricted open bidding procedures for public works projects. In short, this bill represents good public policy.

I will be unable to attend this afternoon's hearing because one of my children is undergoing extensive dental procedures at that time. In my absence, please consider my comments and give them due consideration during your deliberations.

Please call me at my home number (listed above) or at my office: (907) 258-3701, if you have any questions.

Sincerely,



Sharen Walsh Linford, P.E.

04-30-97 A11:20 IN

LEGISLATIVE INFORMATION OFFICE
119 N. CUSHMAN, SUITE 101
FAIRBANKS, AK 99701
452-4448

APR 30 1997

DATE: 4/25

Please accept the enclosed original(s) of written
testimony for the

House L3 C teleconference scheduled on

4/25. A copy of this testimony was

transmitted to your committee via fax.

Thank you,



APR 24 1997

ASSOCIATED GENERAL CONTRACTORS of ALASKA

4041 B STREET • ANCHORAGE, ALASKA 99503
P.O. BOX 240609 • ANCHORAGE, ALASKA 99524-0609
TELEPHONE (907) 561-5354 • FAX (907) 562-6118

April 24, 1997

To
Alaska House of Representatives
House Labor & Commerce Committee

Norman Rokeberg, Chairman

Subject: House Bill No. 209; "An Act relating to the use of pre-hire project labor agreements for public construction projects by the state and political subdivisions of the state"

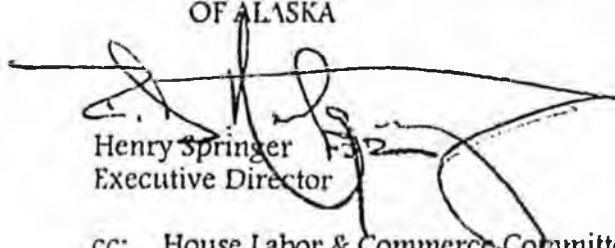
The Associated General Contractors of Alaska, its 600 members and thousands of employees representing the construction industry, support this bill. We believe that unrestricted open bidding procedures for public works projects are the most prudent way of serving the public interest in accordance with the state procurement codes.

Utilizing workers dispatched from an organized labor organization as a sole source unfairly restricts the individual rights and disenfranchises a large segment of contractors. Project labor agreements which define certain project provisions are useful as long as they do not restrict fair processes and practices. This bill defines such conditions and represents good public policy.

Some of the contents are complex and involve legal, constitutional and public policy considerations. We offer our expertise and services to work with you on this important bill.

Sincerely,

ASSOCIATED GENERAL CONTRACTORS
OF ALASKA



Henry Springer
Executive Director

cc: House Labor & Commerce Committee Members
John Cowdery (R-Anchorage), Vice Chairman
Bill Hudson (R-Juneau)
Jerry Sanders (R-Anchorage)
Joe Ryan (R-Anchorage)
Eric Croft (D-Anchorage)
Gene Kubina (D-Anchorage)
Representative Al Vezey

FAIRBANKS
P.O. BOX 60005 • FAIRBANKS, AK 99706
(907) 452-1809

SOLDOTNA
P.O. BOX 350 • SOLDOTNA, AK 99669
(907) 262-2485



CITY/BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

APR 24 1997

OFFICE OF THE MAYOR

April 24, 1997

The Honorable Norman Rokeberg, Chair
House Labor and Commerce Committee
State Capitol, Room 24
Juneau, AK 99811

Dear Representative Rokeberg:

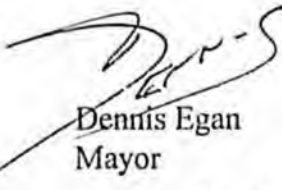
I am writing on behalf of the City and Borough of Juneau to express our opposition to HB209, an Act regulating the use of pre-hire project labor agreements for public construction projects by the state and political subdivisions of the state. The City and Borough of Juneau is currently utilizing a project labor agreement for the construction of Riverbend Elementary School, and we have been very pleased with the progress, productivity and overall performance on the project to date. The Riverbend PLA has more than fulfilled our expectations with regard to assuring a qualified and stable work force for the project and avoiding labor unrest.

Our project labor agreement was challenged in federal court and withstood the challenge. It is our belief that the onerous findings required in HB209, by "clear and convincing evidence" no less, would only serve to increase the potential for litigation and impede our ability to elect to utilize the procedure we at the local level feel is best suited to our needs. The restrictions on the terms of a PLA contained in the bill would undercut the very basis for using a PLA to begin with, the assurance of a qualified and stable (and in our experience, by way of a welcome "side effect", local) workforce on the project.

The United States Supreme Court has ruled that PLAs in the public sector are constitutional, and their use is becoming more prevalent throughout the nation in both state and local government contracting. We have found the PLA to be a valuable tool in performing public construction in the City and Borough of Juneau and would urge your committee and the legislature to allow us to continue to utilize that tool without unnecessary regulation by state statute.

Please share this letter with the members of your committee. Your attention to our concern is greatly appreciated.

Sincerely,


Dennis Egan
Mayor

155 South Seward Street, Juneau, Alaska 99801

Rain Proof Roofing Co., Inc.

2201 EAST 84th COURT
ANCHORAGE, ALASKA 99507
(907) 344-5545
FAX (907) 349-3386

2308 STANDARD AVENUE
FAIRBANKS, ALASKA 99701
(907) 456-5545
FAX (907) 452-2693



APR 30 1997

April 30, 1997

To
Alaska House of Representatives
House Labor & Commerce Committee

Norman Rokeberg, Chairman

As an Alaskan contractor we strongly support the passage of House Bill 209 which would regulate and define the conditions under which a Project Labor Agreement (PLA) could be used, ensuring an open and competitive bid process for publicly funded projects.

We maintain a local and stable workforce in both the Anchorage and Fairbanks areas. In 1996 the Fairbanks North Star Borough instituted PLA's on both the New Eielson Elementary School and the Lathrop High School Renovation Project. Due to the enforcement of the PLA's we were precluded from participating on these projects. Our Fairbank's employee's were denied the opportunity to work on projects paid for in part by the tax dollars. Allowing PLA's without the condition as defined in HB 209 denies our employees the right of choice of employment.

House Bill 209 effectively defines the conditions of when a PLA could be used. It provides conditions that benefit all Alaskans and yet retain fair and competitive bidding. We urge your support of the passage of this bill.

Sincerely,

Patrick Reilly
Rain Proof Roofing Co., Inc.

Fax: (907) 465-2040



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the HOUSE LABOR + COMM.
 Committee on HB 209 Committee Name
Dated 4-25-97
 Bill / Subject

THE PHILOSOPHICAL ARGUMENT THAT ACCESS TO "EMPLOYMENT OPPORTUNITIES" AND "COST SAVINGS" NECESSARILY RESULTS IN GENERAL BENEFITS TO THE PEOPLE IS BASED ON THE ASSUMPTION THAT WORKERS WOULD BE THE RECIPIENTS. ALSO, A PERSON COULD JUST AS EASILY BELIEVE THAT GOVERNMENTS SHOULD OPENLY PREFER UNIONS, BECAUSE OF THE BENEFITS TO ALL PARTIES WHICH RESULT. THE ASSUMPTION THAT ALL PEOPLE WOULD BENEFIT FROM SUPPOSED "COST SAVINGS" OF A CHEAPER LABOR FORCE, IGNORES THE FACT THAT ALL PEOPLE ARE AFFECTED BY LOWER WAGES. SHOULD GOVERNMENT FAVOR GROUPS OR INDIVIDUALS? WE HONOR INDIVIDUALS BY RECOGNIZING UNIONS.

SIGNED: SCOTT T. CAUDER

Testifier

SELF

Representing

P.O. 75011 / FBRS, AK. 99707

Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Labor & Commerce
 Committee on House Bill - 209 Committee Name Dated 4-25-97
Bill / Subject

as a working man, who has worked in The Great State of Alaska for 22 years, I resent the continuous attack, by some of our legislators to turn back the clock to the bad old days - less pay, less benefits, less rights, for the blue collar folk. I am against this bill. I suggest you all read about the strife we Americans have been through at Matwan, Homestead Haymarket square.

SIGNED:

Leon F. Tomasic

Testifier

Myself & my union

Representing

4785 Amherst dr, FBKS, AK, 99709

Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Labor & Commerce
Committee Name
 Committee on HIB 209 Dated 4/25/97
Bill / Subject

I OPPOSE HOUSE BILL 209 FOR A NUMBER OF REASONS
 PLAs benefit both UNION & NON-UNION WORKERS OF
 ALASKA by INSURING THAT WAGES & BENEFITS ARE FAIR
 FOR WHOEVER WORK ON THESE PROJECTS COVERED BY PLA.

UNIONS ACROSS OUR STATE INVEST IN OUR COMMUNITIES BY PURCHASING
 BONDS ISSUED ON STATE & POLITICAL SUBDIVISIONS CONSTRUCTION
 PROJECTS, PROVIDING THAT ^{THESE} BOND RATINGS MEET INVESTMENT CRITERIA
 THESE INVESTMENTS INSURE ADEQUATE FINANCING FOR THESE PROJECTS

PLAs offer opportunities to employ ALASKA NATIVE thru
 APPRENTICESHIP PROGRAMS AND PROMOTE ALASKAN HIRE

I HAVE LISTEN TO PUBLIC TESTIMONY AND HAVE CONCLUDED
 THAT MR. VEZEY'S MOTIVES ARE NOT INTENDED TO PROMOTE
 EQUALITY BUT SIMPLY TO INCITE DESSENTION AMONG THE
 WORKING PEOPLE OF ALASKA.

SIGNED: Daniel Simen
 Testifier

Representing

P.O. Box 71501 Fairbanks, AK. 99701 (907) 456-4929
 Address / Phone Number

Alaska State Legislature

House of Representatives
E-Mail: Representative Al_Vezey@LEGIS.state.ak.us

Interim Address:
119 N. Cushman, Suite 211
Fairbanks, AK 99701
(907)-456-5081
Fax# (907)-456-8245
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Session Address:
Room 13
(907)-465-3719
FAX# (907)-465-3258
State Capitol
Juneau, AK 99801-1182

Representative Al Vezey

HB 209 PRE-HIRE PROJECT LABOR AGREEMENTS

Sponsor Statement

The National Labor Relations Act (NLRA) permits employers in the construction industry to enter into pre-hire Agreements or Project Labor Agreements (PLA's) to accommodate special conditions in the construction industry such as the short-term nature of employment, unpredictable costs, and a lack of steady supply of skilled labor.

States are excluded from the definition of "employer" in the NLRA, however, in 1993, Building and Construction Trades Council v. Associated Builders and Contractors, (Boston, 113 S.Ct. 1190, 1993), the U.S. Supreme Court ruled that a public entity can choose a contractor based upon that contractor's willingness to enter into a prehire agreement if the public entity was pursuing proprietary interests to ensure an efficient project.

The Court has determined that the state and its political subdivisions may enter into or require its contractors to enter into a pre-hire project labor agreement. The Court has not provided sufficient guidelines to determine when a municipality may enter into a project labor agreement. The Court ruled only that a municipality may enter into a pre-hire project labor agreement if that municipality is "attempting to ensure an efficient project that would be completed as quickly and effectively as possible at the lowest cost."

HB 209 will provide guidelines whereby the state and its political subdivisions could enter into or require a contractor to enter into a pre-hire project labor agreement. In general it requires that it must be shown that a PLA is in the public's best interest.

PLA's typically exclude half of the Alaskan workforce from job opportunities. PLA's exclude more than half of the truly Alaskan contractors capable of performing the work.

Chugach Electric Association recently dropped its requirements of PLA's. The result has been a tremendous cost savings to its consumers due to increased competition for the work.

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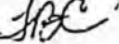
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MEMORANDUM

March 24, 1997

SUBJECT: Sectional Summary of Work Order 20-LS0366\B, dated March 21, 1997. (Pre-hire project labor agreements for public construction projects)

TO: Representative Al Vezey
Attn: Rynneiva Moss

FROM: Teresa B. Cramer 
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 provides that provisions of AS 29.35.125, enacted by sec. 2 of the bill, will apply to home rule municipalities.

Sec. 2 provides that a municipality may only enter into a project labor agreement or require a contractor on a public construction project to enter into a project labor agreement with a labor organization if doing so is in accordance with AS 36.90.300, enacted by sec. 3 of the bill.

Sec. 3 adds a new section to AS 36.90 setting out conditions under which the state or a political subdivision of the state (including a municipality) may enter into a project labor agreement. Under subsection (a), the state or political subdivision must enter written findings, supported by clear and convincing evidence, on the six points listed. Subsection (b) limits the terms that may be included in a project labor agreement. Subsection (c) defines "contractor" and "state" for this section.

PROJECT LABOR AGREEMENTS QUASH FIRST AMENDMENT RIGHTS

By Donna C. Willard, Esq.
Past President, Alaska Bar Association

Some 75% of the construction projects in the United States are built by merit shop contractors while 83% of the industry's work force is comprised of non-union workers. Moreover, in the past thirty years, those percentages have been growing.

In a bid to reverse that trend, which has decimated their ranks, unions have engaged in a concerted effort to persuade governmental entities to utilize Project Labor Agreements (PLA's) in conjunction with public works projects. By their terms, any person thereafter employed must be a member of a union, thereby becoming obligated to pay union dues as well as to contribute to health, welfare and pension plans, and to be dispatched through a union hiring hall.

When union efforts to mandate such agreements through a change in Alaska state law were unsuccessful, attention was turned to local government work projects. This year, organized labor persuaded both the Juneau and Fairbanks Boroughs to incorporate into three discrete projects a requirement that the successful bidder, whether or not a union contractor, sign a PLA as a condition to being allowed to prosecute the work.

The oft-touted basis for such a requisite is that it will promote local hire. However, because the law does not permit discrimination based upon a person's residence, whether he or she lives in a different part of Alaska or "outside," attempts to justify utilization of PLA's have been framed instead in terms of the unions' purported unique abilities to guarantee timely and efficient completion, assure labor stability and the absence of labor unrest, provide an experienced, skilled work force and maintain the highest standards of safety and quality. Not only is there no evidence to support the notion that only union workers can provide those qualifications and qualities but the legal infirmities with respect to such a mandate are manifold.

One of the most cherished rights enjoyed by Americans is that freedom of association which is guaranteed by the First Amendment to the United States Constitution as well as Article I, Section 6 of the Alaska Constitution. Simply stated, people are free to choose with whom they will interrelate and are equally free to refuse to do so.

In the labor context, what this means is that a person has a choice; either to join a union or to decide not to do so. The unions, by insisting upon the utilization of PLA's in Alaska public works contracts, are attempting to abrogate that right. However, that is only the beginning of the adverse effects visited upon the workers of Alaska.

Yet another critical right guaranteed by the Alaska Constitution is set forth in Article I, Section 1 - to work and to enjoy the rewards of individual effort. Because of union hiring hall practices, however, which set forth stringent prerequisites, workers forced to join a union in order to be eligible for hire have little or no chance of actually being employed.

For example, if the person were an electrician, in order to be eligible for dispatch he or she would either have had to work extensively under a collective bargaining agreement, have completed the IBEW's apprenticeship program which generally takes several years or have passed the union's journeyman examination. Moreover, the other unions, all of which employ progressive job referral lists, make it equally onerous for a person with no prior union affiliation to actually obtain a job. However, the difficulties don't end there.

The non-union employee not only loses the right to contribute to any vested pension plan which he or she already enjoys but must pay for the privilege of doing so by contributing substantial sums to the union coffers, the benefits of which will never be realized because of stringent vesting requirements. Thus, for instance, a Fairbanks laborer's rights to any pension benefits does not vest until he or she has been a member of the union, and made the appropriate contributions to the plan, for at least ten years.

Similarly, health insurance is placed in jeopardy because union rules mandate that the worker must contribute to union plans. However, if sufficient hours are not worked, the employee does not receive full coverage. Moreover, because no one can afford to maintain two health care policies, current coverage would be discontinued and might very well not be replaceable when forced union membership is terminated at project completion.

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Requiring unwilling persons to join a union and pay substantial sums for benefits they will never receive also falls afoul of yet another constitutional provision. Both the Fifth Amendment to the United States Constitution and Article I, Section 18 of the Alaska Constitution guarantee that private property will not be taken without just compensation. Nevertheless, the unions' insistence upon utilization of PLA's accomplishes precisely that result.

Also being violated are the public bidding laws of the State of Alaska which required, in order to wisely spend public money, that contracts be awarded only as the result of free and open competition to the lowest responsible and responsive bidder. To suggest, as the unions have, that reducing competition will lower project costs simply defies both logic and common sense. To the contrary, it is clear that a PLA requiring union-only labor has the practical effect of excluding merit shop contractors and hence can only adversely impact the ultimate price.

It furthermore cannot be seriously questioned that restrictive union work rules result in higher construction costs. Indeed, as reported by the Construction Labor Research Council, the terms and conditions of union labor agreements account for 8.4% of labor costs. Equally non-conducive to a cost-effective project are union rules which require any dispute over a work assignment to be resolved not by the employer but by the local unions or, in the case of an unresolvable difference, by the international unions.

Such differences are settled not on the basis of the most productive and efficient method of accomplishing the work but rather on grounds of historical, arcane union work rules which, for instance, will not permit a plumber to lift a piece of lumber.

In addition, substantially more overtime wages would be incurred because PLA's generally mandate that all work in excess of eight hours a day be paid at one and one-half times the straight time hourly wage.


Moreover, the same is true with respect to weekend work. On the other hand, since merit shop contractors are required to pay overtime only after 40 hours have been worked in any given week, such costs would be greatly reduced. Needless to say, this difference is of considerable importance in a state where climactic conditions, which curtail the length of the construction season, dictate both longer shifts and enlarged work weeks.

While it cannot be gainsaid that unions occupy a prominent place in American labor history, they reached that plateau because workers voluntarily formed and joined them to promote common goals. However, that era has passed, having been displaced by federal and state laws such as Davis-Bacon and OSHA which guarantee both adequate wages and efficacious working conditions. For unions to attempt to revitalize their organizations by forcing workers to join their ranks, and concomitantly swell their financial coffers, in violation of constitutional law, simply should not be tolerated.

Merit shop employees have no quarrel with their union counterparts and have no desire to see unions disbanded. Similar deference should be accorded those who have chosen not to so associate. After all, the right to hold and advocate divergent views and to tread differing paths constitute the very foundation upon which this country was built. A

Donna C. Willard is a sole practitioner who has practiced law in Alaska for 25 years. She is Secretary-Elect of the American Bar Association.





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failed. The Project Labor Agreements are underway, providing good paying jobs for construction workers, and soon, two new schools for Fairbanks. Unfortunately, however, the Seattle and Anchorage Attorneys billed the contractors nearly \$80,000 for their failed legal theories. Watch out—they may be looking for more “paying customers”!

In short, Project Labor Agreements are good for Alaska and it's workforce. Project Labor Agreements provide work for Alaskans, keep the payroll in Alaska to support local businesses, create continuous training for Alaska workers and generally benefits the economy of the local communities and the State. A

[Joe J. Thomas was born and raised in Fairbanks, Alaska. He is a 30 year member of Laborers' Local 942 and has been the Business Manager/Secretary-Treasurer of Laborers' Local 942 since 1978. He has served on numerous boards and commissions in the State of Alaska, both public and private.]



WHAT'S WRONG WITH PUBLIC OWNER PROJECT LABOR AGREEMENTS?

By Bill Isokait, Director
Open shop & Government Services
Associated General Contractors
of America
Washington, D.C.

Playing politics with tested public policy and legal principles at the behest of construction unions serves only the institutional interests of the unions, and puts even greater tax payer resources at jeopardy in the legal challenges and delays that are certain to follow such radical departures from established practices. Under these circumstances, the alleged efficiencies of PLAs are indeed “artificial and illusory.”

Since the 1993 U.S. Supreme Court decision in *Building & Construction Trades Council v. Associated Builders & Contractors* (known as “Boston Harbor”), the construction trade unions have significantly intensified their lobbying of public authorities to mandate union-only specifications on public construction projects. The adoption of project labor agreements (PLAs) is usually encouraged with little or no advance notice, no public comment or debate and little or no genuine attempt to engage in fact-finding or otherwise demonstrate any rational basis for the government exclusion of workers represented by other unions or non-union workers from employment on publicly funded projects.

Public agencies, however, should not be deceived in this fashion. Boston Harbor does not validate all public project PLAs. Instead, Boston Harbor decided

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a narrow legal question, concluding that a public agency acting in its proprietary capacity was not subject to National Labor Relations Act (NLRA) pre-emption. The Court did not address any policy issues, nor did it address any other possible legal challenges to public project PLAs.

The Associated General Contractors of America, Inc. (AGC) represents general construction contractors that are signatory to collective bargaining agreements with the building trades as well as those that operate on an open shop basis. AGC opposes public owner project labor agreements. This policy is founded on the well-established and time-tested principles that tax payer financed construction must be open to competition among all qualified firms, regardless of their labor policy or the collective bargaining choices of their employees, and that competitive collective bargaining agreements are best achieved through employer negotiated agreements free of public agency interference or mandates.

These principles are reflected almost universally in public procurement laws and regulations controlling the purchase of goods and services by tax payer financed agencies. These laws and regulations typically require that contracts be awarded to the lowest responsible bidder. There are both serious public policy and practical financial arguments against excluding an entire industry sector from competing for these contracts, as well as significant issues impacting the legality of PLAs.

Public Policy Issues

Public owners are not usually engaged in the construction industry on a full-time basis and usually do not directly employ construction industry workers. As a result, they lack experience in negotiating collective bargaining agreements with building and construction trade unions. The net result is that many PLAs appear to have been written by the unions themselves, with no discernible management input. As a consequence, the terms of most PLAs are overwhelmingly favorable to the building trade unions and reflect few meaningful concessions to the public agency.

The second major problem with public owner PLAs is that they are frequently motivated by political considerations and not by an effort to obtain the best work at the most competitive price. Public owner PLAs in actual operation tend to add costs and expenses to construction projects. They typically run counter to state and local competitive bidding requirements. The reality is that if a PLA requires that all construction work be performed by trade workers referred from union hiring halls under union compensation practices and union work rules, then

this tilts the free play of market forces in the construction industry by depriving open shop contractors of their right to employ their own employees on public work. This fundamental intrusion into contractor methods of operation lies at the heart of the many problems created by public owner project labor agreements.

Union claims that open shop firms are not foreclosed from bidding on projects governed by PLAs are disingenuous. Open shop employment practices may be significantly different from union practices in a variety of material respects. In many cases, open shop employers have spent years building teamwork, cross-training, management and work practices that form the basis of project performance and bidding. Radical changes to these practices under project labor agreement work rules can severely disrupt company operations.

Public owner PLAs typically require the great majority of workers to be referred through a union hiring hall and that anyone hired become a member of the union. This operates as an organizing tool for construction trade unions, and violates the principle that public agencies should not become involved in private sector labor relations. In addition, faced with the prospect that only a small number of their own employees can be employed on the project and that union membership, dues and work rules will be imposed upon their work force, many open shop contractors will simply avoid bidding, or working on a PLA project.

These are among the reasons why the U.S. Army Corps of Engineers and the National Institute of Governmental Purchasing have rejected PLAs as viable construction procurement methods, and why the U.S. General Accounting Office has questioned their use on Department of Energy projects

Legal Issues

The Supreme Court's decision in Boston Harbor also leaves a host of issues impacting the legality of public owner PLAs unresolved. At the federal level, NLRA pre-emption may still apply if PLAs are imposed to regulate private labor relations. Contributions to union benefit funds that are required by PLAs may be prohibited by the Employee Retirement Income Security Act. Antitrust law may apply to the extent that public agencies and their representatives engage in anti-competitive conduct outside the NLRA exception for employers in the construction industry. Provisions in PLAs making the payment of union dues mandatory may conflict with other Supreme Court decisions allowing non-members to avoid payments that are not necessary

for collective bargaining representation.

There are serious questions about the legality of PLAs under state law as well. State constitutions or local charters that guarantee the rights of citizens to join, or not join, a union of their own choosing may prohibit mandatory membership and dues requirements and/or the entire agreement. State administrative procedure laws may require that a PLA be promulgated through formal rule making before it can be imposed. State antitrust and restraint of trade laws may also apply.

Since the Boston Harbor decision, PLA litigation has proliferated at the state level, usually focused on the legality of these agreements under state competitive bid laws. Courts in New Jersey, Ohio and Iowa have declared PLAs to be illegal under laws that require public contracts to be awarded to the lowest responsible bidder.

In New York, the Court of Appeals recently ruled that state law permits PLAs however they must have a "rational basis" and be supported by a record demonstrating that "the PLA had as its purpose and likely effect the advancement of the interests embodied in the competitive bidding statutes." Under this test, the court upheld one PLA and invalidated another. The dissent in the New York case identified and articulated the central flaw in all public owner PLAs in its analysis: ...the majority accepts that PLAs protect the public fisc(interest) and that a public authority in support of its decision to utilize a PLA - need only point to an anticipated cost savings and experience with labor unrest, as the Thruway Authority has done. But this ignores the fact that non-union contractors may be able to submit substantially lower bids if they are not required to comply with a PLA. Moreover, the anticipated savings to the public project are directly attributable to the elimination of the costs of organized labor and labor unrest, or, as the majority notes, "concessions won from local unions." Viewed another way, organized labor drives the cost of the project up; PLAs bring it back down. Thus, the savings from the PLA

are, in essence, artificial and illusory. Viewed in such a light, it cannot be seriously argued that public authorities' endorsement or utilization of PLAs to appease labor unions is not fundamentally a matter of social policy. As such, it is an issue that should be addressed by the Legislature.

As the dissent in this case observes, public agencies that are receptive to the political importuning of construction unions, and exclude other union represented and non-represented workers from public works projects, put the integrity of open competitive bidding rules at risk and waste tax payer resources through diminished competition and lost opportunities to gain project efficiencies through employer-negotiated bargaining or open shop practices. A

Bill Isokait
AGC-Washington, D.C.

PROJECT LABOR AGREEMENTS

By Betsy Lawer
Vice Chair and Chief Operating Officer
First National Bank of Anchorage

By its very nature, a Project Labor Agreement excludes competent and qualified Alaska businesses and individuals from participating in a fair and open bidding process on specific projects.

Imagine for a moment that First National Bank reviewed loan applications or screened new depositors

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using a similar process. Not only would we violate a score of fundamental banking regulations, we would betray the very principles on which First National Bank was founded.

We serve Alaskans. All Alaskans. We try to serve our customers well. All our customers. For nearly 75 years, we've created partnerships and provided opportunities based on merit and performance, not on organizational membership.

That's why, when we put out an invitation for contractors to bid for the job of constructing our new \$14.4 million Headquarters and Service Center buildings, our concern was not whether the bid was awarded to a union or non-union contractor. Rather, our concern was creating opportunities for all our customers, including union and non-union contractors; keeping and creating jobs for Alaskans; improving our quality of service for all our customers; and providing a good return for shareholders. The success of employees, customers, shareholders and Alaskans—that is our focus.

 We do not know of anyone else's experience with or reasons for or against Project Labor Agreements. We do know that entering into a Project Labor Agreement excluding some of our customers and other Alaskans was not a consideration. That is what we expressed to union management.

Since the time we awarded our jobs to the low bidder, a merit shop contractor, union management has responded in the following fashion:

- by threatening us, then trying to organize and conduct a secondary economic boycott against our bank
- by publishing a statement of a competing financial institution's pledge to bid union when, in fact, the institution had not made that pledge
- by publishing and distributing unsigned, false and misleading statements and attributing them to First National Bank and bank management (copies on file at First National Bank).

That is, it appears union management is trying to use First National Bank illegitimately to foil others (including, presumably, union members.) And at First National Bank, we stand strong in the belief that we have no part in that equation—the choice of union membership is completely between management and employees.


That's what we know about Project Labor Agreements.

For nearly 75 years First National Bank has pursued a vision for Alaska and all its people: prosperity, health and success. Now, we've chosen to involve 100% Alaskan labor—including union and non-union labor—in two construction projects that will inject some \$14 million into the Alaska economy. Indeed, we chose not to abide union management and instead chose in favor of all Alaskans.

Even as other financial institutions are outsourcing their operations and taking direction from headquarters "outside" we're constructing these buildings to continue housing our headquarters and expanding service operations right here in Alaska.

First National Bank employs about 825 Alaskans and boasts 28 branches in 16 communities. We're growing to better serve the needs of the state's some 616,000 residents. Our bank is bringing technological advancements to the fingertips of Alaskans in ways matched by no other Alaska financial institution.

For example, we are among the first in the nation to offer Prime Pass imaging products to Alaskan customers. We are the only financial institution in the state with a private communication system—so advanced we can share it with our customers, enabling them to send digital messages across the state quickly and with more efficiency than ever. Our electronic banking services allow business to wire money, cut a statement, make tax payments and more in a matter of moments—at their own offices, using their own computers.

 We're going ahead and building two new buildings to house these incredible technological investments along with the staff it takes to operate the technology. In doing so, First National Bank is remaining true to its roots—loyal to Alaskans, the ones that make Alaska.

No, Project Labor Agreements are not First National Bank's issue. Union labor or non-union labor is not an issue. We hope to continue to provide the same opportunities and quality service to both. We place an interest in every Alaskan's success—welcoming anyone with dreams of prosperity, health and success into our bank for business.

Frankly, we're surprised any Alaskan would take issue with that. A

*Betsy Lawer
Vice Chair and Chief Operating Officer,
First National Bank of Anchorage*

COMPETITIVE BIDDING COULD SAVE MILLIONS

By Ray Kreig, President,
Chugach Electric Association
Board of Directors
Anchorage

Project agreements reduce competition. The public—when given the chance—clearly understands the cost benefits of open competition. Our board placed a bylaw change on this spring's co-op election ballot that requires Chugach to use full, open, and competitive bidding in future construction. It was passed by better than 3 to 1 and Matanuska Electric Association members passed a similar measure by the same margin in 1994.

Electric utilities in the railbelt typically spend about \$40 million each year on capital construction and maintenance. In addition there is \$200 million proposed for construction of three electric transmission interties over the next five years. Chugach Electric Association does about half of the construction and maintenance contracting and is currently planned to be responsible for over 40% of the total of all three intertie costs.

Chugach has taken the lead in exploring cost reduction alternatives because, as the railbelt's largest utility, Chugach pays the largest share of intertie and other construction costs. The Chugach board recently retained consultants to evaluate whether the Memorandum of Understanding Chugach and other utilities signed in March 1990 with the International Brotherhood of Electrical

Workers Union would affect the cost of intertie construction. Here is what we have found:

Full, open and competitive bidding which would allow other unions and open shop contractors to work on the projects, could cut the cost of the intertie construction by over \$15 million.

The study analyzed a preliminary cost estimate prepared by an Alaska engineering consultant for the transmission line portion only of the Northern Intertie system. The study estimated that it would cost \$50.5 million to build the Northern Intertie between Healy and Fairbanks if it were bid out under the National Electrical Contractors Association-IBEW Union agreement (this agreement controls over \$10 million of Chugach's present annual capital construction program.) The study evaluated concessions already granted by the IBEW for this intertie at \$2.8 million and identified \$6.7 million in additional savings that would be possible under full and open contracting. Full and open contracting means no restriction on the source of labor, wages rates, fringe benefits, and a finding that the Alaska "Little Davis Bacon" Act does not apply to the project. Under that scenario the Northern Intertie could be constructed for \$41 million, 19% less than under the standard NECA-IBEW agreement. The study estimated that Alaska "Little Davis Bacon" bidding restrictions add 12% to the cost of the Northern Intertie.

Similar savings could be realized on the proposed Southern Intertie between Anchorage and the Kenai Peninsula, and on the proposed Copper Valley Intertie between Sutton and Glennallen. Beyond the concessions already made by the IBEW, the consultants suggested that additional savings of over \$15 million (could be achieved) if all three interties are built under full and open bidding.

The Chugach economic study was performed by Herbert R. Northrup and Armand J. Thieblot. Northrup is Professor Emeritus of The Wharton



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School, University of Pennsylvania; Dieblot is former Associate Professor of Management at the University of Maryland. Both are noted for their expertise in labor and manpower policy, labor economics, and labor relations.

The study only included savings from readily quantified differences in labor costs such as wages, fringe benefits, special payment requirements, crew makeups, etc. Not included were additional savings that could result from other factors such as increased competition, differences in equipment costs, supervision, insurance and bonding, as well as other items.

A problem with negotiated project agreements is that the public never knows if it is getting the best price. No one can predict what the open market best price would be from contractors that are free to use their creativity in approaching a project. Project agreements generally stifle creativity since, by nature, labor productivity becomes regimented to the terms of the agreement.

On June 5, 1996 the Chugach Electric Board of Directors exercised its options and stated that it did not intend to operate under the March 1990 Memorandum of Understanding with the IBEW Union. This action was taken by the board in order to carry out the overwhelming mandate by our membership to realize the benefits of full, open and competitive bidding for our construction projects. We fully expect, however, that the IBEW will ultimately perform a large part of the work on these projects by being competitive in an open and fair process and we welcome their many qualified and experienced workers on our projects.

*Ray Kreig
President, Chugach Electric Association*



Denver International Airport HIGHLIGHTS OF AIRPORT PROJECT LABOR AGREEMENT

By Bob Miller

The agreement reached by the parties is thought to be among the first, if not 'the' first such major agreement in recent history. It may be instructive to recount some of the highlights of the final agreement.

The City of Denver entered into a project (labor) agreement for the construction of the (then to be) new Denver airport. The agreement became effective on May 19, 1989 and remained in effect through December 31, 1994.

The agreement applied to all contractors and subcontractors performing work on Phase I of the new airport construction. It is interesting to note that this work included five or six runways, 94 passenger gates, and three million square feet of terminal and concourse building space.

The airport agreement presumed that both "signatory contractors" and "nonsignatory contractors" would simultaneously be working on the project. It was structured in such a way that only certain portions would apply to nonsignatory contractors.

The agreement preserved for the city the right to select the lowest responsive bidder. Contractors were able to select the most qualified persons for employment, and employees were not required to join a union unless otherwise provided in a local collective bargaining agreement.

It was a management rights agreement which maintained for the contractor the full and exclusive authority to manage its construction operation. Wages and benefits were paid as required by the Davis-Bacon Act. The city auditor established appropriate procedures to make sure that appropriate wages were paid.

A substance abuse policy was in effect at the airport. Possession or use of illegal drugs or alcohol was cause for immediate termination. The agreement did not contain a specific drug testing requirement although it was recognized that additional policies and procedures con-

Alaska State Legislature

APR 04 1997

House of Representatives

E-Mail: Representative Al_Vezey@LEGIS.state.ak.us

Interim Address:
119 N. Cushman, Suite 211
Fairbanks, AK 99701
(907)-456-5081
Fax# (907)-456-8245
Official Business



Session Address:
Room 13
(907)-465-3719
FAX# (907)-465-3258
State Capitol
Juneau, AK 99801-1182

Representative Al Vezey

Date: April 4, 1997
To: Rep. Norm Rokeberg
From: Rep. Al Vezey *AV*
Re: HB 209 Hearing Request

I am requesting that HB 209, "*An regulating the use of pre-hire project labor agreements for public construction projects by the state and political subdivisions of the state*" be scheduled for hearing in the House Labor & Commerce Committee.

Attached is the bill and sponsor statement I have prepared.

I will be out of town from April 11th - April 14th. Thank you for your consideration.

HB

214

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 214

Revision Date: _____
 Title: "An Act relating to an employer's knowledge of an employee's physical condition for purposes of the Alaska Workers' Compensation Act ..."
 Sponsor: Rules Committee
 Requestor: (H) Labor and Commerce Committee

Department Affected: Administration
 BRU: Risk Management
 Component: Risk Management
 COMPONENT SERIAL NO. 0071

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ None

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact on the Division of Risk Management.

Prepared by: J. Brad Thompson, Director
 Division: Risk Management

Phone: 465-5723
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: 4/2/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 214

Revision Date: _____
 Title: Workers Comp: Temp Assistance/
 Med Condit
 Sponsor: House Rules
 Requestor: House L&C

Department Affected: Labor
 BRU: Workers' Compensation
 Component: Workers' Compensation

COMPONENT SERIAL NO. 344

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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						
---------	--	--	--	--	--	--

CHANGE IN REVENUE FUND SOURCE #						
------------------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

Sections 1 and 2 of this proposed bill amend the current workers' compensation provisions so that they correspond with 42 U.S.C. 12101 - 12213 Americans with Disabilities Act, also know as the ADA. Section 3 establishes an exclusion from coverage under the Alaska Workers' Compensation Act for participants in certain work activities required under the Alaska temporary assistance program so that only those participants who are involved in wage earning activities will be subject to workers' compensation coverage.

Prepared by: Paul Grossi, Director *Paul Grossi* Phone: 465-2790
 Division: Workers' Compensation Date: 3/28/97

Approved by Commissioner: Tom Cashen, Commissioner *for Tom*
 Agency: Department of Labor Date: 3/28/97

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Alaska State Legislature

MAR 26 1997

2:15pm



House of Representatives

Official Business

COMMITTEE ON RULES

State Capitol Rm 204
Juneau Ak 99801-1182

TO: Representative Norm Rokeberg
Chair
House Labor and Commerce Committee

FROM: Representative Pete Clott
Chair
House Rules Committee

RE: HB 214: Request for Committee Hearing

DATE: March 26, 1997

I respectfully request that you calendar HB 214, dealing with worker compensation matters, for a hearing next week. This bill is merely housekeeping in nature and there is no opposition. I would anticipate that it would require less than 5 minutes of committee time. Tomorrow, I will forward to you a Sponsor Statement, a Sectional, and backup material.

Thank you in advance for your kind assistance in this matter.

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 26, 1997

FURTHER REFERRALS:

Date of Committee Action: 4/4/97

The LABOR AND COMMERCE Committee considered:

HB 214

HOUSE BILL NO. 214

WORKERS COMP:TEMP. ASSISTANCE/MED. CONDIT

“An Act relating to an employer's knowledge of an employee's physical condition for purposes of the Alaska Workers' Compensation Act; excluding certain participants in the Alaska temporary assistance program from coverage under the Alaska Workers' Compensation Act; and providing for an effective date.”

recommends it be replaced the same title
 with the following committee substitute _____ a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) DOLA, HSE zero fiscal note(s) _____
DOA, + DOLabor

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>John Anderson</i>	✓			
<i>John Sanders</i>	✓			
<i>Alfred Kuebler</i>	✓			
<i>Gene Kamm</i>	✓			
<i>Bill Hudson</i>	✓			
<i>Nancy Kotely</i>	✓			

CHAIR'S SIGNATURE Nancy Kotely 4-4-97

APR 04 1997

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 214

Revision Date: _____ Dept. Affected: Department of Law
 Title: ... employer's knowledge of an employee's BRU: Civil Division
physical condition ... purposes of the Alaska Worker's Compensation . . Component: General Legal Services
 Sponsor: House Rules Committee
 Requester: House Labor and Commerce Committee COMPONENT SERIAL NO.: 2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (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

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

HB 214 amends AS 23.30.022, relating to false statements by an employee as to the employee's physical condition, and AS 23.30.205(c), relating to injury combined with preexisting impairment, to bring Alaska's workers' compensation laws into conformance with the federal Americans with Disabilities Act.

The Alaska temporary assistance program (the successor to the Aid to Families with Dependent Children program), AS 47.27, was enacted in 1996 as part of welfare reform. One of its provisions, AS 47.27.035, requires that, unless exempt under that statute, participants in the Alaska temporary assistance program must participate in "work activities" in order to receive assistance or services under the program. "Work activities" includes paid employment and paid on-the-job training, as well as unpaid activities such as community work service and job search and preparation activities. HB 214 would also amend AS 23.30.230(a), the list of persons excluded from workers' compensation coverage, to add to that list Alaska temporary assistance program participants who are engaged in unpaid work activity. The amendment would draw the distinction that ensures

Prepared by: Joan M. Kasson *Joan M. Kasson*
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General *Bruce M. Botelho*
 Agency: Department of Law

Phone: 465-5370
 Date: 4/1/97
 Date: 4/1/97

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