

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9319 HOUSE LABOR & COMMERCE

1 (18) AS 21.78;

2 (19) AS 21.89.040;

3 (20) AS 21.89.060;

4 (21) AS 21.90.

5 \* Sec. 61. AS 21.90.900(29) is amended to read:

6 (29) "policy" means the written contract of or written agreement for or  
7 effecting insurance, by whatever name called, and includes all clauses, riders,  
8 endorsements, and papers attached to it and a part of it; for a group, trust,  
9 association, or similar entity. "policy" also means a certificate or other evidence  
10 of insurance that establishes the written contract of or written agreement for or  
11 effecting insurance for an insured or other beneficiary of the entity;

12 \* Sec. 62. AS 21.90.900 is amended by adding a new paragraph to read:

13 (41) "medical care" means amounts paid for

14 (A) diagnosis, care, mitigation, treatment, or prevention of  
15 disease, or amounts paid for the purpose of affecting any structure or function  
16 of the body;

17 (B) transportation primarily for and essential to medical care  
18 described in (A) of this paragraph; and

19 (C) insurance covering medical care described in (A) and (B)  
20 of this paragraph.

21 \* Sec. 63. AS 21.42.375(d), 21.42.395(d); AS 21.56.110(b), 21.56.110(d), 21.56.130,  
22 21.56.150, and 21.56.170 are repealed.

23 \* Sec. 64. AS 21.54.150, enacted by sec. 24 of this Act, is repealed.

24 \* Sec. 65. Sections 3, 4, and 5, ch. 101, SLA 1992, are repealed.

25 \* Sec. 66. Sections 4, 7, 9, 12, and 13, ch. 39, SLA 1993, are repealed.

26 \* Sec. 67. AS 21.54.150, enacted by sec. 24 of this Act, takes effect January 1, 1998.

27 \* Sec. 68. Except as provided in secs. 67 and 69 of this Act, this Act takes effect  
28 July 1, 1997.

29 \* Sec. 69. Section 64 of this Act takes effect September 20, 2001.

**EXECUTIVE SUMMARY**  
**KASSENBAUM/KENNEDY BILL**

Presented by  
**Marianne K. Burke, Director**  
**Division of Insurance**

**Health Insurance Portability and Accountability Act of 1996 (HIPAA, or Kassenbaum/Kennedy)**

- signed by the President on August 21, 1996
- most sweeping health care legislation since passage of Employee Retirement Income Security Act (ERISA) in 1974

**General Structure of HIPAA:**

- 1) amendments to ERISA. One reason the law is so sweeping is it affects self-funded plans, and helps level the playing field by imposing standards on plans over which the states have no jurisdiction
- 2) parallel amendments to the Public Health Service Act (PHSA) that affect health carriers
- 3) amendments to the tax code for long-term care insurance, medical savings accounts and deductibility for the self-employed

Our bill focuses on number 2 - amendments to our insurance code.

**Insurance Code amendments fall into three areas:**

- **small group market reforms**
- **large group market reforms**
- **individual market reforms**

**Essential elements of HIPAA:**

**Small group market:**

- 1) **guaranteed issue to**
  - **all small employers** (defined as those having an average number of employees during the prior year of 2-50)
  - **all eligible employees**
  - **all products** offered by a carrier in the small group market, not just the standard and basis plans as in current law

- 2) **guaranteed renewability** of all policies with certain enumerated exceptions
- 3) **preexisting condition exclusion limitations** - limited to 6/12 (lookback/exclusion) with credit for prior coverage as long as there has been no gap in coverage greater than 63 days; current Alaska law allows a gap no longer than 90 days

**Large Group market:**

- 1) **guaranteed renewability** of all policies with certain enumerated exceptions
- 2) **preexisting condition exclusion limitations** - limited to 6/12 (lookback/exclusion) with credit for prior coverage as long as there has been no gap in coverage greater than 63 days

The bill calls for a study of availability in the large group market; no guaranteed issue requirements in this market.

**Individual market:**

- 1) **guaranteed issue** to eligible individuals (those with 18 months creditable coverage, most recently in a group plan, with no break in coverage greater than 63 days)
- 2) **guaranteed renewability** of all policies with certain enumerated exceptions
- 3) **no preexisting condition exclusions** may be imposed on **eligible individuals**

**Pregnancy and genetic testing in absence of the condition are not allowed as preexisting conditions** in the group market, and are not allowed for eligible individuals in the individual market.

HIPAA creates federal standards in the area of health insurance by essentially creating a floor in certain areas, below which state standards may not fall.

- however, state flexibility exists
- certain state laws are specifically preempted if not in compliance with the federal standards, for example preexisting condition exclusion provisions

With respect to the individual market, the federal standards will not apply if the state enacts what is called an **acceptable alternative mechanism**. There is a four-pronged test for an acceptable alternative mechanism, and the states are given many options as to how to comply.

HIPAA requires that an **acceptable alternative mechanism** meet **four requirements**:

1. It must provide eligible individuals with a **choice** of coverage;

2. It cannot impose any **preexisting condition exclusions** for eligible individuals;
3. The choice must include **at least one policy form** that is:
  - (i) comparable to **comprehensive coverage** in the individual market in the state; **or**
  - (ii) comparable to the **standard** plan under the state's small group or individual laws;

-AND-

4. The state must be implementing **one of three things**:
  - (a) one of **two specified NAIC models laws** on individual market reform;
  - (b) a qualified **high risk pool** as defined in the law; or
  - (c) (i) a mechanism providing for **risk adjustment, risk spreading**, or a risk spreading mechanism or otherwise provides for some **financial subsidization** of eligible individuals; or  
  
(ii) a mechanism allowing eligible individuals a **choice of all available** individual health insurance coverage.

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

FEB 13 1997

TONY KNOWLES, GOVERNOR

P.O. BOX 110805  
JUNEAU, ALASKA 99811-0805  
PHONE: (907) 465-2515  
FAX: (907) 465-3422  
TDD: (907) 465-5437

February 13, 1997


The Honorable Norman Rokeberg  
House of Representatives  
State Capitol, Room 24  
Juneau, AK 99801-1182

Dear Representative Rokeberg:

As you requested, I am enclosing a copy of the Health Insurance Portability and Accountability Act of 1996 (the Kassenbaum/Kennedy federal law), a preliminary draft of the proposed Alaska legislation implementing the federal law, and an overview of the federal law which you may find informative. The proposed Alaska legislation is currently being reviewed by Law and, accordingly, we have marked the document as a draft. We do not anticipate any significant changes between the draft and the final document.

I look forward to the work session scheduled on Wednesday, February 19 and appreciate the opportunity to work with the labor and commerce committee regarding this proposed legislation.

Very truly yours,



Marianne K. Burke  
Director

MKB/cw4360.ins  
021397a  
Enclosures

**HB**

**222**

# ALASKA STATE LEGISLATURE

## House of Representatives

COMMITTEE MEMBERS:

REPRESENTATIVE NORMAN ROKEBERG, CHAIRMAN  
REPRESENTATIVE JOHN COWDERY, VICE CHAIRMAN  
REPRESENTATIVE BILL HUDSON  
REPRESENTATIVE JOE RYAN  
REPRESENTATIVE JERRY SANDERS  
REPRESENTATIVE TOM BRICE  
REPRESENTATIVE GENE KUBINA  
COMMITTEE HEARING ROOM 17 STATE CAPITOL



INTERIM:  
718 WEST 4TH AVENUE, SUITE 640  
ANCHORAGE, AK 99501  
PHONE: (907) 258-8191  
FAX: (907) 258-2916

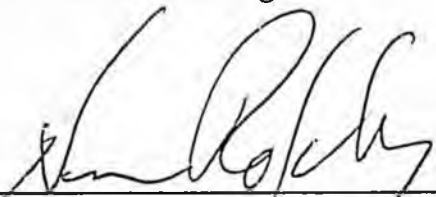
SESSION:  
STATE CAPITOL, ROOM 24  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4954  
FAX: (907) 485-2040

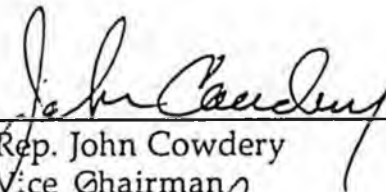
### Labor and Commerce Committee

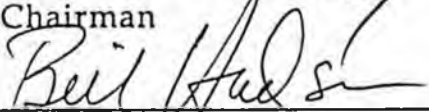
#### HOUSE LABOR AND COMMERCE COMMITTEE WAIVER REQUEST

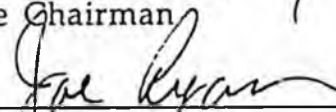
BILL NUMBER: HB 222 Short Title: Abandoned, wrecked, or junk vehicles

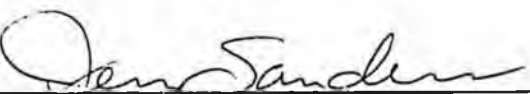
I have no objection to the waiver of this bill from a House Labor and Commerce Committee hearing.


  
\_\_\_\_\_  
Rep. Norman Rokeberg  
Chairman

  
\_\_\_\_\_  
Rep. John Cowdery  
Vice Chairman

  
\_\_\_\_\_  
Rep. Bill Hudson

  
\_\_\_\_\_  
Rep. Joe Ryan

  
\_\_\_\_\_  
Rep. Jerry Sanders

  
\_\_\_\_\_  
Rep. Tom Brice

  
\_\_\_\_\_  
Rep. Gene Kubina

Date: April 25, 1997

FISCAL NOTES: Two zero (DPS, DOA)

Recommendations from previous committee: Transportation: Two do pass recommendations (Reps. Hudson and Williams); five no recommendations (Reps. Elton, Kookesh, Sanders, Cowdery, and Masek)

# ALASKA STATE LEGISLATURE

## House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN  
SPECIAL COMMITTEE ON OIL & GAS, MEMBER  
JUDICIARY COMMITTEE, MEMBER  
CORRECTIONS BUDGET SUBCOMMITTEE, MEMBER  
ADMINISTRATION BUDGET SUBCOMMITTEE, MEMBER  
HESS BUDGET SUBCOMMITTEE, MEMBER




INTERIM:  
718 WEST 4TH AVENUE, SUITE 640  
ANCHORAGE, AK 99501  
PHONE: (907) 258-8191  
FAX: (907) 258-2916

SESSION:  
STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4968  
FAX: (907) 465-2040

### Representative Norman Rokeberg

MEMORANDUM

TO: House Labor & Commerce Committee Members  
FROM: Representative Norman Rokeberg   
DATE: April 25, 1997  
RE: CSHB 222 (Trans)

I would like to waive HB 222 from the Labor & Commerce Committee. The bill has been heard in the House Transportation Committee.

Attached are the following:

- a. Copy of CSHB 222 (Trans)
- b. Sponsor Statement for HB 222
- c. Sectional Analysis to HB 222
- d. Copy of amendments made in House Transportation
  - i. Amendment #1 adds Section 6 to the bill and changes the notice requirements from state procedures to procedures as established by local ordinance.
  - ii. Amendment #2 makes reference, as appropriate, to "reasonably appears" when referring to abandonment status. This amendment was suggested by the City Attorney for the City of Ketchikan as necessary to limit an owner's defense that he or she moved the car a foot or two.
  - iii. Amendment #3 deletes reference to "registered and" when referring to a car sold at public auction. This car would have to be titled but not registered. Registration creates a problem for the small independent tow truck operators in that in Anchorage and Fairbanks to register a vehicle, the vehicle must pass an I/M test. See letters from Alaska Tow Truck Association, DEC, and MOA attached to this memorandum.
- e. Letter from Alaska Tow Truck Association
- f. Letter from DEC
- g. Letters and backup from MOA
- h. Letter from Steve Schweppe, City Attorney, City of Ketchikan (who proposed amendments #1 and #2).
- i. Letter from the Alaska Municipal League.

I would like to waive this bill from committee this afternoon. If you have any questions, please contact Janet Seitz at x6547.

Attachments

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS

LABOR & COMMERCE COMMITTEE, CHAIRMAN  
SPECIAL COMMITTEE ON OIL & GAS, MEMBER  
JUDICIARY COMMITTEE, MEMBER  
CORRECTIONS BUDGET SUBCOMMITTEE, MEMBER  
ADMINISTRATION BUDGET SUBCOMMITTEE MEMBER  
HEALTH & SOCIAL SERVICES BUDGET SUBCOMMITTEE MEMBER



INTERIM:  
715 WEST 4TH AVENUE, SUITE 540  
ANCHORAGE, AK 99501  
PHONE: (907) 258-8191  
FAX: (907) 258-2918

SESSION:  
STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4558  
FAX: (907) 465-2040

## Representative Norman Rokeberg

### SPONSOR STATEMENT

#### HOUSE BILL 222

#### BY REPRESENTATIVE NORMAN ROKEBERG

House Bill 222 is an act relating to abandoned, wrecked, or junk vehicles.

HB 222 would give local governments more tools to work with when impounding and disposing of wrecked or junk vehicles. The Municipality of Anchorage has placed the passage of such legislation on its 1997 Legislative Program as an issue that needs to be addressed. The number of vehicles abandoned on streets and highways has become and is a problem for local governments. These vehicles, besides being an eyesore, can be a possible traffic or health risk. Such vehicles are usually not properly registered and tracing the owner can be difficult.

It is expensive for local governments, and citizens of those governments, to remove wrecked or junk vehicles can be formidable. The Municipality of Anchorage removes more than 1,000 such vehicles from municipal and state rights-of-way each year. The cost to the Municipality of Anchorage to remove such vehicles is approximately \$126,000.

House Bill 222 would provide the following benefits to local governments:

- Expedite removal of junk vehicles from streets and rights-of-way
- Reduce holding time and decrease processing time for junk vehicles.
- Assist in reducing the number of junk vehicles which are sold through auction and often re-deposited on the streets and rights-of-way.

House Bill 222 would make it easier for local governments to remove junk vehicles from streets and rights-of-way. The provisions of HB 222 would save money, allow municipal programs in this area to be more effective, and help make our roadways safer.

Your support of this measure would be appreciated.

ED 1:4/14/97

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

APR 11 1997

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

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

MEMORANDUM

April 4, 1997

**SUBJECT:** Sectional Summary of HB 222

**TO:** Representative Norman Rokeberg  
Attn: Janet

**FROM:** Michael F. Ford *M. F. Ford*  
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. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Establishes that a presumption of abandonment attaches to certain vehicles left unattended if the vehicles are registered or titled as required under AS 28.10.

Section 2. Allows certain junk vehicles to be removed and treated as abandoned vehicles. Provides a definition of "junk" and "wrecked" vehicles.

Section 3. Reduces the time period for reclaiming an impounded vehicle from 30 to 15 days.

Section 4. Allows disposal of a vehicle by scrap processing or by public auction.

Section 5. Requires that vehicles that are sold at auction must be registered and titled.

MFJ:jdr  
97-246.jdr

#1

0-LS0779E.1  
Ford  
4/18/97

*Adopted  
Unanimously  
4/23/97  
House  
Trans*

A M E N D M E N T

OFFERED IN THE HOUSE  
TO: HB 222

BY REPRESENTATIVE ~~ROSENBERG~~

1 Page 3, following line 13:

2 Insert a new bill section to read:

3 **\*\* Sec. 6. AS 28.11.100 is amended to read:**

4 **Sec. 28.11.100. Municipal abatement procedure.** A municipality may  
5 adopt an ordinance establishing procedures for the abatement and removal from  
6 private or public property, as a public nuisance or a health or safety hazard, a  
7 wrecked, dismantled, or inoperative vehicle or a vehicle otherwise presumed to be  
8 abandoned. An ordinance adopted under this section must contain provisions for (1)  
9 notice to owners and lienholders of record and persons known to be lawfully entitled  
10 to possession of the vehicles, of their right to a hearing which shall be conducted by  
11 the municipality in the manner provided for by municipal ordinance [THE  
12 DEPARTMENT UNDER AS 28.05.131 - 28.05.141]; (2) notice to owners and  
13 lienholders as provided in AS 28.11.040; and (3) disposal of abandoned vehicles as  
14 provided in AS 28.11.070."

*accepted  
as amended  
w/m*

#2  
0-LS0779E.2 -  
Ford  
4/22/97

4/23/97  
House  
Trans.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 222

- 1 Page 1, line 5:
- 2 Delete "has"
- 3 Insert "reasonably appears to have [HAS]"
  
- 4 Page 1, line 7, following "AS 28.10":
- 5 Insert "that reasonably appears to have been"
  
- 6 Page 2, line 3:
- 7 Delete "has"
- 8 Insert "reasonably appears to have"
  
- 9 Page 2, line 5, following "vehicle":
- 10 Insert "<sup>A that</sup> reasonably appears to have been"

*adopted  
enrolled*

AMENDMENT

#3  
4/23/97  
House  
Trans

OFFERED IN THE HOUSE

TO: HB 222

Page 3, line 12

Delete: "registered and"



ALASKA TOW TRUCK ASSOCIATION  
P.O. BOX 231991  
ANCHORAGE, AK 99523

APR 24 1997

FAX TRANSMITTAL

DATE: 4-24-97  
ATTENTION: Tanet  
FIRM: Representative Rokeberg  
FAX NO: 465-2040  
TELEPHONE: 1-800-773-4963  
FROM: Sheila Lowell

ENCLOSURES: This Transmittal plus 3 pages.

COMMENTS: let me know if you  
need anything else

Sheila

Please call immediately if transmitted material is illegible or if you do not receive all pages.

(907) 344-5540 Glacier Towing

P.O. Box 231991 Anchorage, Alaska 99523



APR 24 1997

**SUBJECT:** Impact of HB222 on the Towing Industry

**VIEWS:**

A towing company has the right to recover it's costs for towing, research, documentation, storage, insurance, yard rent, payroll and auction of impounded vehicles.

Requiring towing companies or buyers of impounded vehicles to register these vehicles would cause a serious financial hardship on the towing industry. As the buyers would not purchase these vehicles as they are mostly bought for parts not resale. To force buyers to register, would mean to purchase keys, and do repairs needed to bring vehicles into I/M requirements with in Anchorage & Fairbanks. The same applies to the towers if they are required to register these vehicles before sale.

The towing industry has shown a willingness to transfer title at the point of auction to the new buyers of these vehicles. This in turn will help not only the Municipalities, but the State recover moneys for abandoned vehicles, I.E. AMC 15.20.030-.090 Wreck Havoc. It will also bring in additional revenue to the state of \$5.00 per title that has not transferred from auction vehicles in the past.

At this time no Municipal, State or Federal compensation is given to the non contracted towing companies or scrap yards to recover costs for disposal. Until compensation is available the towing industry has no choice but to auction these vehicles to recover their costs.

THE EQUIPMENT OR GOODS SOLD HEREUNDER TO THE BUYER IS SOLD AS-IS WHERE-IS WITHOUT WARRANTY. TO THE EXTENT ALLOWED BY APPLICABLE LAW, THERE ARE NO WARRANTIES EXPRESSED OR IMPLIED INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE WHICH EXTEND BEYOND THOSE ON THE FACE HEREOF APPLICABLE TO THE EQUIPMENT OR GOODS. EXCEPT THE MANUFACTURERS EXPRESS WARRANTIES, IF ANY WHICH ARE THEIRS EXCLUSIVELY AND NOT THE SELLERS. SPECIFICALLY EXCLUDED, BUT NOT LIMITED TO, IS ANY RESPONSIBILITY OF THE SELLER TO PRESENT A CERTIFICATE OF INSPECTION WHICH MAY BE REQUIRED BY THE MUNICIPALITY OF ANCHORAGE UNDER IT'S MUNICIPAL CODE SECTION 15.80.010, OR ANY AMENDMENTS THERETO, OR UNDER THE "ANCHORAGE I/M PROGRAM DESIGN DOCUMENT". DATED OCTOBER 15, 1994 AS AMENDED OR ITS "PRIVATE GARAGE OPTION". DATED MAY 3, 1984, OR ANY AMENDMENTS THERETO. THE BUYER HEREBY WARRANTS AND UNDERSTANDS THAT THE EQUIPMENT IS PURCHASED WITHOUT AN I/M CERTIFICATE OF INSPECTION, WHICH MAY BE LEGALLY REQUIRED, AND AGREES TO INDEMNIFY AND HOLD THE SELLER HARMLESS FROM ANY CLAIMS DEMAND OR LIABILITIES RESULTING THEREFROM.

BUYER \_\_\_\_\_ SELLER \_\_\_\_\_

VIN # \_\_\_\_\_ YEAR \_\_\_\_\_

MAKE/MODEL/COLOR \_\_\_\_\_

RECEIPT FOR THE ABOVE DESCRIBED VEHICLE

BUYER \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE \_\_\_\_\_

AMOUNT PAID \_\_\_\_\_ DATE \_\_\_\_\_



Scott M. Mynatt, Jr.  
Mayor

# Municipality of Anchorage

Department of Health and Human Services

825 L Street

P.O. Box 196650 Anchorage, Alaska 99519-6650



November 4, 1994

GLACIER TOWING  
P.O. BOX 231991  
ANCHORAGE, AK 99523-1991

Dear Owner/Manager:

The Assembly approved an amendment to the I/M Program Design that allows you to sell an impounded vehicle without furnishing the buyer an I/M certificate or waiver. This exemption is contingent upon your compliance with Section 2.2.4 (b), which reads as follows:

"(b) Sellers of vehicles sold through an impound sale in accordance with Alaska Statute 28.10.502 or Anchorage Municipal Code 9.28.026 and 9.50.020 are exempt from the above I/M requirement provided:

- (1) Vehicles are sold without license plates and;
- (2) Buyers are informed that these vehicles cannot be registered by the Division of Motor Vehicles until each complies with current I/M requirements and qualifies for a valid certificate of inspection."

The I/M Program tracks these vehicles and needs documentation on which plates were destroyed. To date, we required a form to be filled out on each vehicle and the submission of all license plates to our office. With this new amendment, we will accept a statement from you on your business letterhead that lists each license plate number removed and certifies that the plates were destroyed and properly disposed of to prevent fraudulent use. The letter must be signed by the seller and submitted to the I/M program office no less than 7 days after the sale. Please send by mail or deliver by courier to:

Vehicle Inspection Program, 825 L Street Room 510, P. O. Box 196650, Anchorage, AK 99519-6650

The information required by Section 2.2.4 (2) for the buyer should be in writing, signed by both the seller and the buyer with a copy provided for each. You should inform the buyer of an impound vehicle that the vehicle may not be titled in their name without an I/M certificate or waiver. If the buyer wants to obtain title to the vehicle, an application for a Title Only I/M certificate is available at the I/M Program office. The fee for a title only certificate is \$10.00.

Please call Senior I/M Field Inspector Jeff Harner at 343-6970 if you have any questions. Thank you for your cooperation.

Sincerely,

Christopher P. Beane  
I/M Program Administrator

*[Faint, illegible text]*

TONY KNOWLES, GOVERNOR

**DEPT. OF ENVIRONMENTAL CONSERVATION**  
**DIVISION OF ENVIRONMENTAL HEALTH**  
**DIRECTOR'S OFFICE**  
 555 CORDOVA STREET  
 ANCHORAGE, ALASKA 99501  
<http://www.state.ak.us/dec/home.htm>

APR 25 1997

Telephone: (907) 269-7644

Fax: (907) 269-7654

E-mail: [jadair@envircon.state.ak.us](mailto:jadair@envircon.state.ak.us)

March 25, 1997

The Honorable Norman Rokeberg  
 House of Representatives  
 Room 24, State Capitol  
 Juneau, AK 99801

Re: HB 222

Dear Representative Rokeberg:

Janet Seitz on your staff called me about the amendment to this bill that would not require an abandoned car be registered, only titled, if it was sold at public action. She wanted to know what, if any, effects that amendment might have on the I/M program and on air quality.

I talked with Chuck Hosack, deputy director of the Division of Motor Vehicles, as well as staff in our air program. As we read HB 222 with the Amendment #3, it will require the car be titled but not registered when sold at auction. You cannot register a car without the I/M certificate, but you can obtain a title.

As we understand the process, once the Municipality lays claim to a junked or abandoned vehicle, the vehicle becomes the property of the Municipality. The Municipality is not required to obtain a title to the car, nor is the contractor/towing company who may be used for auctioning it. Instead, the person who buys the vehicle at the public auction is the one responsible for getting title.

In order to get a title, the new owner will either need to get an I/M certificate, or he may get a "Title Only" waiver from the Municipality for the I/M certificate. With the I/M certificate, he can register the car and everything is fine. With the "Title Only" waiver, the car is not registered and cannot be driven. In fact, the Municipality will take the license plates away when it issues the "Title Only" waiver. Since an unregistered car cannot be driven, and a car cannot be registered without an I/M certificate, this bill should have no impact on air quality.

I hope this answers your questions. Please don't hesitate to contact me if you need anything further.

Sincerely,

*[Handwritten signature]*  
 Janice Adair  
 Director

cc: Michele Brown, Commissioner  
 Mike Conway, Acting Director, Air & Water Quality Division

MUNICIPALITY OF ANCHORAGE  
DEPARTMENT OF HEALTH & HUMAN SERVICES  
MEMORANDUM

APR 24 1997  
4:35 p.m.

DATE: April 24, 1997  
TO: Tim Rogers, Executive Assistant for Legislative Affairs  
THRU: Elaine Christian, Director, Department of Health and Human Services  
FROM: Christopher P. Beane, I/M Program Administrator  
SUBJECT: House Bill 222, Abandoned Vehicles, AS 28.11.070(b)

We support House Bill 222 as amended and believe that it will have a positive impact on Air Quality. Attached is previous correspondence on this subject.

cc: Lura Morgan, Ph.D., Manager, Environmental Services Division  
Steve Morris, Air Quality Manager

Atchs.

House Bill 222  
February 10<sup>th</sup> Letter  
April 22<sup>nd</sup> Letter

Post-it <sup>®</sup> Fax Note	7671	Date	# of pages
To	Janet Seeger	From	Tim Rogers
Concept	0	Co.	
Phone #		Phone #	343-4467
Fax #	465-2040	Fax #	

Municipality  
of  
Anchorage



P.O. 196650  
Anchorage, Alaska 99519-6650  
Telephone: (907) 786-8277  
Fax: (907) 561-1057

Rick Mystrom, Mayor

APR 03 1997

DEPARTMENT OF PUBLIC WORKS  
Street Maintenance Division  
(3500 E. Tudor Road)

April 3, 1997

Representative Norm Rokeberg  
Alaska State Legislature  
State Capitol "MS 3100", Room 24  
Juneau, AK 99801-1182

Re: Junk Vehicle House Bill

Dear Representative Rokeberg:

To reduce the costs of impounding and disposing of approximately 1000 abandoned, wrecked, or junk vehicles in the Municipality of Anchorage each year, we are seeking revisions to AS 28.11.020, 28.22.050 and 28.11.070. These revisions will provide the following benefits:

- Enable the Municipality to expedite removal of junk vehicles from streets and rights-of-ways by reducing the notice time to twenty-four hours rather than the current forty-eight hour requirement;
- The reduction of the holding time from thirty days to fifteen days will not only decrease the processing time for a junk vehicle, but will also provide additional economies for the program by reducing the size of holding yards for municipal contractors.
- The change to allow junk vehicles to be taken directly to a scrap processing yard will greatly assist in reducing the number of junk vehicles which are sold through auction and often re-deposited onto our streets and rights-of-ways.

The revisions proposed in this bill will save money, make municipal junk vehicle programs more effective, and help to make all of our roadways more attractive to our citizens and visitors. Thank you for sponsoring HB 222, "An Act Relating to Abandoned, Wrecked, or Junk Vehicles." This bill will help us manage the problem more effectively and efficiently.

Sincerely,

Everett L. Mabry  
Manager

cc: Tim Rogers

worddraw\junkbill

MUNICIPALITY OF ANCHORAGE  
1997 LEGISLATIVE PROGRAM

SUMMARY OF LEGISLATIVE ISSUES

---

Page  
Reference

HIGHEST PRIORITY LEGISLATIVE ISSUES

- 2-3 Public Safety Program
- 2-5 Safe Communities Program
- 2-6 Economic Development – Global Logistics Industrial Park Infrastructure
- 2-7 Bill of Mandates Legislation or Constitutional Amendment

OTHER LEGISLATIVE ISSUES

- 2-9 Amend AS 29.65 to provide conveyance of isolated tracts
- 2-10 Economic Development – Reauthorize Alaska Regional Development Organizations (ARDOR's)
- 2-11 Abandoned Vehicles - AS 28.11.020, AS 28.04.050, and AS 28.11.070
- 2-14 Revision to Method of Imposition of Penalties for Minor Traffic Offenses and Operator's License Revocations - AS 28.15.191 & AS 28.40.050
- 2-16 Amendment to Worker's Compensation Statute - AS 23.30.015 Compensation when third persons are liable
- 2-20 Amend Public Employees Pension Plans to limit basis of computation of retirement benefits to base pay. Exclude overtime that inflates future pension benefits.

MUNICIPALITY OF ANCHORAGE  
1997 LEGISLATIVE PROGRAM  
LEGISLATIVE ISSUES

TITLE: Abandoned Vehicles - AS 28.11.020, AS 28.04.050 and AS 28.11.070

Over the last several years, the number of vehicles abandoned on streets and highways has increased to the point that it has become one of the more vexing problems of local government. In Anchorage alone, more than 1,000 junk vehicles are removed from municipal and state rights-of-way each year. These abandoned vehicles are an eyesore on the roadways, present a possible traffic or health risk, and are a potential pollution source due to leaking hazardous materials. The cost to the MOA to remove these vehicles is estimated to be approximately \$126,000 annually.

The vehicles that are abandoned are usually not properly registered making it difficult to trace the true owner to assess civil or criminal penalties. Further, even if a responsible owner did wish to properly dispose of a vehicle, the cost could be as much as \$300 per vehicle given the maze of local, state and federal regulations which must be complied with.

The proposed changes herein address these concerns and are designed to expedite removal and disposal of junk vehicles. In order to resolve these issues, the Municipality of Anchorage recommends the following specific changes to state statutes:

Section 28.11.020. Presumption of Abandonment.

1. A vehicle currently registered pursuant to AS 28.10 that has been left unattended, standing, parked upon or within 10 feet of the traveled portion of a highway, in excess of 48 hours, or a currently registered vehicle left standing or parked on private property in excess of 24 hours or upon other public property for more than 30 days, without the consent of the owner or person in charge of the property, notwithstanding other statutory provisions, may be removed under AS 28.11.030 and treated as an abandoned vehicle, unless the vehicle is reclaimed and removed before action regarding removal is taken under AS 28.11.030.

(more)

Abandoned Vehicles  
(continued)

2. A wrecked vehicle or Junk Vehicle that has been left unattended, standing, parked upon or within 10 feet of the traveled portion of a highway, in excess of 24 hours, or a wrecked vehicle or junk vehicle left standing or parked on private property or other public property in excess of 24 hours, without the consent of the owner or person in charge of the property, notwithstanding other statutory provisions, may be removed under AS 28.11.030 and treated as an abandoned vehicle, unless the vehicle is reclaimed and removed before action regarding removal is taken under AS 28.11.030.
3. The department for good cause may make provisions for parking of vehicles on state property other than specified in this section and under the provisions of AS 44.62.
4. For purposes of this title and regulations adopted under this title the following terms shall have the meanings set forth below:
  - A. Wrecked Vehicle means a vehicle which is so disabled that the whole vehicle cannot be used for its primary function without substantial repair or reconstruction.
  - B. Junk Vehicle means a vehicle that exhibits one of the following:
    1. not currently registered for operation upon the public roads of the State; or
    2. stripped, wrecked, or otherwise inoperable due to mechanical failure; or
    3. has not been repaired because of mechanical difficulties or because the cost of repairs required to make it operable exceeds the fair market value of the vehicle; or
    4. in a condition which exhibits more than one of the following elements:
      - (a) broken glass;

(more)

Abandoned Vehicles  
(continued)

- (b) missing wheels or tires;
- (c) missing body panels or parts; or
- (d) missing drive train parts.

Section 28.11.050. Vesting of Title.

Title to an impounded vehicle not reclaimed by the registered owner, a lienholder, or other person entitled to possession of the vehicle within [30] 15 days from the notice given under AS 28.11.040 vests with the state or, if a municipal ordinance is adopted under AS 28.11.100, with the municipality, as appropriate. However, nothing in this section prohibits a lien under AS 28.11.090.

Section 28.11.070. Disposal of Abandoned Vehicles.

- (a) Upon satisfaction of the notice and reporting requirements prescribed in this chapter, a vehicle may be disposed of as follows:
  - (1) By removal to a scrap processing yard or auto wrecker at which place said vehicle shall be disposed of in such a fashion so as to render it incapable of use as a vehicle.
  - (2) By public auction 20 days after notice of the auction is published in a newspaper of general circulation in the area or municipality in which the vehicle was found and presumed abandoned. The notice of auction must describe the vehicle and specify the place, date, and time at which it will be sold. A copy of the notice of auction shall be conveyed to the department.
- (b) A vehicle disposed of under (a)(2) of this section must be registered and titled under AS 28.10, and may not be subsequently sold without a certificate of title issued by the department.
- (c) Notwithstanding the provisions of this section, a person who disposes of an abandoned vehicle under this section may initiate a civil action against a person named in AS 28.11.010, if liable, for costs exceeding receipts for the disposal of the vehicle.

Contact: Ann Waller Resch  
Deputy Municipal Attorney  
Phone: 343-4545

**OFFICE OF THE CITY ATTORNEY**  
CITY OF KETCHIKAN, ALASKA

Steven H. Schweppe  
City Attorney  
334 FRONT STREET  
KETCHIKAN, ALASKA 99901  
(907) 225-3111, EXT. 327  
Facsimile (907) 247-3111

April 21, 1997

APR 21 1997

VIA FACSIMILE  
(907) 465-2040

Representative Norman Rokeberg  
Alaska State Legislature  
House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

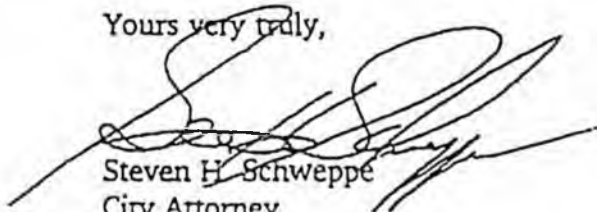
Rc: House Bill 222

Dear Representative Rokeberg:

Thank you very much for drafting the proposed amendment to AS 28.11.100. I believe that it addresses the issue which I discussed with your staff. I know that the Ketchikan Police Department and the Ketchikan City Council will be pleased to know that they can establish their own notice and hearing procedures without being mandated to adopt the system used by the State Department of Public Safety.

Since talking to your staff, I have also been contacted by Pete Ecklund of Representative Williams' office concerning this matter. I am enclosing material which I faxed to him last week concerning enforcement of the abandoned vehicle laws. You may want to consider some of these additional issues. I would not, however, want to delay the change to Alaska Statutes 28.11.100 by adding new issues, especially since we have been able to avoid some of these issues in Ketchikan by drafting our own local ordinance.

Yours very truly,

  
Steven H. Schweppe  
City Attorney

KCS/M/RNR

Enclosures

cc: Pete Ecklund, Representative Williams' office  
Via Facsimile (907) 465-3793

**OFFICE OF THE CITY ATTORNEY**  
CITY OF KETCHIKAN, ALASKA

Steven H. Schweppe  
City Attorney  
334 FRONT STREET  
KETCHIKAN, ALASKA 99901  
(907) 225-3111, EXT. 337  
Facsimile (907) 247-2111

April 18, 1997

VIA FACSIMILE  
(907) 465-3793

Mr. Pete Ecklund  
House of Representatives  
Representative Bill Williams  
M/S 3100  
Juneau, AK 99801-1182

Re: Representative Rokeberg's Bill on Abandoned and Wrecked Vehicles

Dear Pete:

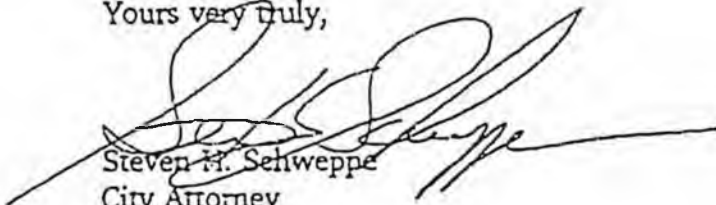
Following our discussion earlier this week, I found the enclosed memorandum which I wrote to the Borough Attorney concerning abandoned vehicles and a presentation he was preparing to make to the Municipal Attorney's Convention. Please note numbers (1) through (3) on pages two and three. These three paragraphs address the primary problem we have with enforcing the abandoned vehicle laws. Paragraph (1) on page two addresses the certified mail problem which we discussed this week. Paragraph (2) on page three discusses the problem with the presumption of abandonment. We have had a number of street-side mechanics who seek to evade the abandoned vehicle ordinance by pushing the vehicle up and down the street. If they are successful in pushing it far enough so that it no longer "reasonably appears" to have been in the same place for 48 hours, the presumption of abandonment ends and the vehicle cannot be removed. In number (3) I address the most common problem in convicting owners of abandoning their vehicles. It would be helpful if the statute would describe how the "identity of the person abandoning the vehicle" is established. People who abandon vehicles or leave junked vehicles on streets generally do not register their vehicles with the Department of Motor Vehicles. In order to establish the identity of the person abandoning the vehicle, the registered owner should be required to present a bill of sale signed by both parties and witnessed or notarized. I would prefer to have the abandoned vehicle law written as a strict liability

law imposing liability on the registered owner unless he has transferred title through the Department of Motor Vehicles.

In reviewing the proposed House Bill No. 222 I noted an additional point which I missed in my discussions with Representative Rokeberg's office. I note that Section 1 states that the vehicle must have been left unattended, standing or parked for 48 hours. The City of Ketchikan has rewritten its abandoned vehicle ordinance to provide that the presumption of abandonment applies if the vehicle "reasonably appears" to have been left unattended, standing, parked. We made this change to eliminate the owner's defense that he pushed the car two feet or three feet during the night. Generally police officers cannot determine whether the vehicle has been moved a matter of two or three feet and obviously cannot know that the vehicle has been unattended for 48 consecutive hours. By adding the phrase reasonably appears, the City's ordinance stops people from evading the ordinance by moving their cars back and forth a few feet or inches. You may want to look at adding the phrase "reasonably appears" to Section 1 and Section 2 of the proposed statute. On several occasions I have had vehicle owner's argue that every 48 hours they pushed their car back and forth. Please apologize to Representative Rokeberg's office for not having brought this to their attention when they called me. My excitement and concern over the certified mail issue caused me to overlook this issue.

Thank you for calling my office on this bill. The Ketchikan Police Department and I will be extremely happy if the certified mail requirement is deleted and we are permitted to draft our own notice requirements.

Yours very truly,



Steven M. Schweppe  
City Attorney

Enclosure

**STEVEN H. SCHWEPPE**  
CITY ATTORNEY  
CITY OF KETCHIKAN, ALASKA

334 FRONT STREET  
KETCHIKAN, ALASKA 99901  
(907) 226-3111, EXT. 337  
Facsimile (907) 247-2111

**MEMORANDUM**

**TO:** Scott A. Brandt-Erichsen, Esq.  
Borough Attorney

**FROM:** *SKS* Steven H. Schweppe  
City Attorney

**RE:** Carwars Presentation

**DATE:** October 29, 1996

Thank you for giving me an opportunity to review your draft materials on vehicle impoundment and forfeiture. Discussion of this issue is long overdue, and is particularly pertinent in view of the recent U.S. Supreme Court decisions on double jeopardy. It is one of those topics that personally affects all municipal attorneys. We have probably all been confronted on several occasions by elected officials demanding better or quicker impoundment of vehicles. As municipal attorneys we need to have prompt and good responses. Your presentation will be a survival course for municipal attorneys.

I have several initial comments concerning the state cases cited in your memorandum. First, on page 6 you cite *Skagen v. Municipality of Anchorage*. This case was reported in *Municipality of Anchorage v. William M. Skagen*, \_\_\_ P.2d \_\_\_, Op. No. 1474 (Alaska App., June 21, 1996). Unfortunately, the Court of Appeals stated that the double-jeopardy claim was not ripe. Furthermore the Court relied upon Skagen's default in the forfeiture action, and thus apparently waived his right to contest the forfeiture altogether. Hopefully, Cliff will have an update on the criminal case and whether double jeopardy was raised as a defense at that time.

On page 14 you cite *Resek v. State*, 706 P.2d 288 (Alaska 1985). The *Resek* case is important for two reasons. As you point out, it holds that an indigent claimant does not have a constitutional right to appointed counsel. Secondly, the *Resek* case suggests that forfeiture actions should be stayed pending completion of the criminal prosecution. This is an important principle affecting cities that do not prosecute all DWI's. It requires us to wait until after the State's criminal case is resolved before we can forfeit the automobile. In Ketchikan we only prosecute first-offense DWI's. We forfeit vehicles in second-offense DWI's. Due to *Resek* we must delay our *in rem* forfeiture case until the State's criminal

case is completed. Since the criminal case will generally drag on for several months, this results in significant impoundment costs being imposed upon us. Municipalities which are considering impoundment and forfeiture of DWI vehicles need to realize that, due to *Resek*, the costs of impound will often exceed the value of the vehicle. When the City of Ketchikan first considered a DWI forfeiture ordinance we talked to the Portland, Oregon, officials who were administering the model ordinance which was used by both Anchorage and Ketchikan. The Portland authorities advised that a municipality should have its own impound lots before it begins a DWI forfeiture program. Without a municipally-owned impound lot, the costs of storage will eliminate most of the income from the sale of most vehicles. In general, if the vehicle has any value, there is a lien upon the vehicle for most if not all of its value. Under *State v. Rice*, 626 P.2d 104 (Alaska 1991), the lienholder's share of the car's value may be inaccessible to the municipality.

As to the abandoned vehicle discussion, you may wish to consider the following matters:

- (1) Is certified mail notice necessary prior to impoundment? AS 28.11.100 authorizes municipalities to adopt ordinances for the removal of abandoned vehicles. Under that section an ordinance must provide notice to owners "of the right to a hearing which shall be conducted by the municipality in the manner provided for the department under AS 28.05.131 - 28.05.141." Under AS 28.05.131 the State may impound only after "giving of notice." The term "giving of notice" is defined in AS 28.05.121. That definition requires certified mail or return mail. I realize that AS 28.05.131 allows for immediate removal where necessary for protection of health, safety or welfare. I find it difficult to believe that towing of abandoned vehicles will generally fall within this exception. If it does fall within the exception, the entire section is rendered meaningless. Obviously, any impoundment will be done for the protection of the health, safety and welfare. AS 28.11.100 may be read as providing for municipally determined notice with the phrase "which shall be conducted by the municipality in the manner provided for the department under AS 28.05.131 - 28.05.141" referring simply to the hearing process and not to the notice process. The manner of giving notice is, however, specifically required by AS 28.05.131. Furthermore, AS 28.01.010 provides that the provisions of Title 28 are applicable to all municipalities, and that a municipality may not enact ordinances inconsistent with Title 28.

The City of Ketchikan has long required that certified mail notice be given before an abandoned vehicle is towed. This creates a fair amount of paperwork, and considerable delay. From a municipal attorney's perspective this requirement is particularly significant since abandoned vehicles are frequently impounded on the complaint of angry citizens. These citizens do not understand why weeks or more may pass between the time of their complaint and the time the vehicle is removed. Certified mail notice is one of the reasons for this delay, and is the source of significant dissatisfaction among citizens and elected officials.

- (2) Notice provisions also relate to another problem with the abandoned vehicle statute. Once a street-side mechanic is notified of the abandoned vehicle provisions, he will frequently attempt to avoid abandonment by moving his vehicle several feet in one direction or another. I have recently had several cases in which people have pushed their nonoperating vehicle back and forth up the street. The City of Ketchikan has somewhat addressed this problem by applying its abandoned vehicle ordinance to vehicles which "reasonably appear" to have been abandoned. Since a police officer will seldom be able to testify that the vehicle is in exactly the same position as it was 48 hours earlier, this language has saved several convictions. While it may be somewhat inconsistent with the state statute, AS 28.11.100 permits ordinances which create a presumption of abandonment. We have expanded upon the statutory presumption. Furthermore, our ordinance is consistent with the policy of the statute, and therefore some inconsistency would seem to be permitted under AS 28.01.010. This is an important issue in enforcement of these ordinances.
- (3) In most abandoned vehicle cases the registered owner claims to have sold or given the vehicle to some named third party. Frequently the city attorney will not learn of the name of this person prior to trial. When he is lucky enough to obtain the name and/or address of this "new owner" prior to trial, the chances are great that the "new owner" will have moved to parts unknown. AS 28.11.010(d) states that the lawful owner of the vehicle as shown on the department's records is considered responsible for the abandonment of the vehicle. The statute does not, however, create strict liability on the part of the registered owner. It contains a large loophole. The presumption is overcome if "the identity of the person abandoning the vehicle is established." A defendant will seek to establish the identity of that person by testifying that he sold or gave the vehicle to the "new owner." While this may establish the identity of a new owner, I have argued with some success that this testimony does not establish the identity of the person who abandoned the vehicle. It assumes that the new owner abandoned the vehicle, but no testimony is available to make this link. In some cases, however, the registered owner does establish this link through his testimony, or the testimony of a friend. Furthermore, I frequently find that the registered owner files a transfer pending with the Department of Motor Vehicles shortly after receiving notice of the abandoned vehicle. This document can be filed without the cooperation of the supposed "new owner." The DMV's records have been so horrendously outdated that we sometimes find that the transfer pending has been filed and/or a transfer completed months prior to the abandonment without any update of the DMV records. The municipal attorney cannot completely rely upon DMV records. This breakdown in the system and the low level of proof needed to overcome the presumption, makes prosecution unnecessarily difficult.

The topic of abandoned vehicles is a major issue affecting the relationship of municipal

attorneys to their elected bodies. It is a source of frustration. A municipal attorney will spend excessive amounts of time prosecuting these violations with below average odds of success. Elected officials are frustrated when their constituents call complaining about a vehicle which has not been immediately removed. For these reasons the AMAA may wish to seek changes in the abandoned vehicle statutes. These changes would include language allowing municipalities to establish their own notice and hearing procedures, a statute placing greater responsibility on the registered owner, perhaps making the registered owner responsible, and requiring him to recover from the "new owner" who abandoned the vehicle. This would create a strict liability standard. Since the registration of the vehicle is something within the seller's control, it seems appropriate that the seller should bear the full responsibility for his negligence and his failure to protect himself by properly registering the vehicle in the new owner's name. Finally, there may be some advantage in looking at language specifically expanding abandoned vehicles to include those that "reasonably appear" to be unmoved within 48 hours.

Two other related issues may be worth discussing. First, the City of Ketchikan is currently seeking an amendment to the Administrative Code to change posting requirements for 24-hour parking. Currently, 24-hour parking limitations must be posted along every block where the limitation applies. The proposed change would allow for a 24-hour limitation to be posted only on the outskirts of town. The 24-hour limitation would then apply on all streets within the town. The Department of Public Safety has taken public comment on this proposed change. Other cities might want to consider expanding this posting exemption to apply to calendar parking requirements or requirements prohibiting street parking during certain evening hours. One benefit of such parking limitations is the removal of junked and abandoned vehicles on a shorter timetable. These limitations are also helpful in snow removal and street cleaning.

Secondly, it would be helpful to discuss the judicial authority for impounding vehicles with outstanding parking tickets (see page 2 of your memo). It is quicker and easier to impound for outstanding parking tickets than for abandonment. No giving of notice is required. I have, however, been unsure of the judicial authority which support such impounds.



APR 22 1997

217 Second Street, Suite 200 • Juneau, Alaska 99801 • Tel (907) 586-1325. Fax (907) 463-548

April 22, 1997

Representative Norman Rokeberg  
State Capitol Room 24  
Juneau, AK 99801

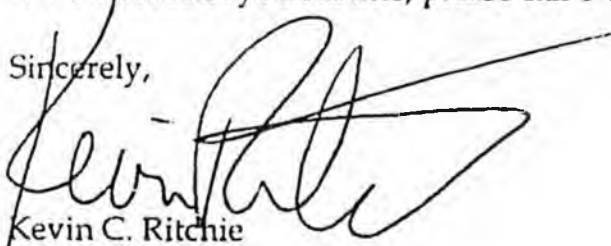
Dear Representative Rokeberg:

We are writing in support of HB 222, relating to abandoned, wrecked, or junk vehicles. Many of our member municipalities are obligated to remove junk vehicles from their city streets and this bill will provide them with the tools to make that process easier.

We understand this issue is of considerable concern to the Municipality of Anchorage, however, we feel that passage of this legislation will help all municipalities who have the responsibility of keeping the streets safe and more attractive.

If we can assist you further, please call on me.

Sincerely,



Kevin C. Ritchie  
Executive Director

c:/jk/leg97/hb222ltr.doc

**HB**

**223**

# FISCAL NOTE

APR 25 1997

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. HB 223

Revision Date: \_\_\_\_\_  
 Title: No Overtime Exempt for Contract  
Flextime  
 Sponsor: Representative James  
 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

**ANALYSIS:** (Attach a separate page if necessary)  
 This legislation will have minimal program impacts. The handful of flexible work hour plans that unions enter into would not adversely impact the agency. There will be no fiscal impact.

Prepared by: Alan W. Dwyer, Director *[Signature]* Phone: 465-4855  
 Division: Labor Standards & Safety Date: 4/24/97

Approved by Commissioner: Tom Cashen, Commissioner *[Signature]*  
 Agency: Department of Labor Date: 4/24/97

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**  
 For further distribution information call the Governor's Legislative Office

Alaska State Legislature

APR 25 1997

REPRESENTATIVE  
JEANNETTE JAMES  
P.O. Box 56622  
North Pole, Alaska 99705  
(907) 488-1546  
FAX (907) 488-4271



While in Juneau  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-3743  
FAX (907) 465-2381

House Of Representatives  
House District 34

SPONSOR STATEMENT

Endeavoring to level the playing field for all workers in the State of Alaska HB 223, No Overtime Exemption for Contract Flexitime, repeals AS 23.10.060(d)(13).

AS 23.10.060(d)(13) allows workers covered by a collective bargaining agreement to voluntarily waive overtime pay when working longer daily shifts. There is no exemption for non-union workers.

This particular piece of legislation was introduced in the wake of HB 68, Voluntary Flexible Work Plan, which requests a mining industry exemption to Alaska's labor law requiring overtime pay for more than eight hours of work a day.

HB 223 addresses this concern of industry and invites discussion pertaining to a more flexible work week that all workers can benefit from.

HOUSE BILL NO. 223  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE JAMES

Introduced: 4/1/97

Referred: Labor and Commerce

A BILL

FOR AN ACT ENTITLED

"An Act removing the exemption from overtime pay requirements for work performed under a flexible work hour plan included as part of a collective bargaining agreement."

BE IT ENACTED BY THE STATE OF ALASKA:

- \* Section 1. AS 23.10.060(d)(13) is repealed.
- \* Sec. 2. Nothing in this Act modifies or terminates the terms of a collective bargaining agreement in effect on the effective date of this Act.
- \* Sec. 3. This Act applies to work performed on or after the effective date of this Act.

CSHB 68(L&C)

CS FOR HOUSE BILL NO. 68(L&C)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 2/7/97

Referred: Rules

Sponsor(s): REPRESENTATIVES THERRIAULT, Kelly, Vezey, Cowdery

A BILL

FOR AN ACT ENTITLED

"An Act relating to an exemption from the requirement for payment for overtime under a voluntary work hour plan for work performed by employees at certain mines; and providing for an effective date."

BE IT ENACTED BY THE STATE OF ALASKA:

\* Section 1. AS 23.10.060(d) is amended by adding a new paragraph to read:

(17) work performed by an employee under a voluntary flexible work hour plan that is not entered into under paragraphs (13) or (14) of this subsection if the employee is employed at a surface metal mining operation that operates year round and if

(A) the employee and the employer have signed a written agreement and the written agreement has been filed with the department; and

(B) the department has issued a certificate approving the plan that states the work is for 40 hours a week and not more than 12 hours a day; for work over 40 hours a week or 12 hours a day under a flexible work hour plan not entered into under paragraphs (13) or (14) of this subsection, compensation at the rate of one and one-half times the regular rate of pay shall be paid for the overtime.

\* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

Sec. 23.10.060. Payment for overtime.

(a) An employer who employs employees engaged in commerce or other business, or in the production of goods or materials in the state may not employ an employee for a workweek longer than 40 hours or for more than eight hours a day. This section does not apply to the employment of a person acting in a supervisory capacity.

(b) If an employer finds it necessary to employ an employee in excess of 40 hours a week or eight hours a day, compensation for the overtime at the rate of one and one-half times the regular rate of pay shall be paid.

(c) This section is considered included in all contracts of employment.

(d) This section does not apply with respect to

(1) an employee employed by an employer employing less than four employees in the regular course of business, as "regular course of business" is defined by regulations of the commissioner;

(2) an employee employed in handling, packing, storing, pasteurizing, drying, preparing in their raw or natural state, or canning agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products;

(3) an employee of an employer engaged in small mining operations where not more than 12 employees are employed if the employee is employed not in excess of 12 hours a day or 56 hours a week during a period or periods of not more than 14 workweeks in the aggregate in a calendar year during the mining season, as the season is defined by the commissioner;

(4) an employee engaged in agriculture;

(5) an employee employed in connection with the publication of a weekly, semiweekly, or daily newspaper with a circulation of less than 1,000;

(6) a switchboard operator employed in a public telephone exchange that has fewer than 750 stations;

(7) an employee in an otherwise exempted employment or proprietor in a retail or service establishment engaged in handling telegraphic, telephone, or radio messages for the public under an agency or contract arrangement with a telegraph or communications company where the telegraph message or communications revenue of the agency does not exceed \$500 a month;

(8) an employee employed as a seaman;

(9) an employee employed in planting or tending trees, cruising, or surveying, or bucking, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal if the number of employees employed by the employer in the forestry or lumbering operations does not exceed 12;

(10) an individual employed as an outside buyer of poultry, eggs, cream, or milk in their raw or natural state;

(11) casual employees as may be liberally defined by regulations of the commissioner;

(12) an employee of a hospital whose employment includes the provision of medical services;

(13) work performed by an employee under a flexible work hour plan if the plan is included as part of a collective bargaining agreement;

(14) work performed by an employee under a voluntary flexible work hour plan if

(A) the employee and the employer have signed a written agreement and the written agreement has been filed with the department; and

(B) the department has issued a certificate approving the plan that states the work is for 40 hours a week and not more than 10 hours a day; for work over 40 hours a week or 10 hours a day under a flexible work hour plan not included as part of a collective bargaining agreement, compensation at the rate of one and one-half times the regular rate of pay shall be paid for the overtime;

(15) an individual employed as a line haul truck driver for a trip that exceeds 100 road miles one way if the compensation system under which the truck driver is paid includes overtime pay for work in excess of 40 hours a week or for more than eight hours a day and the compensation system requires a rate of pay comparable to the rate of pay required by this section;

(16) an individual employed as a community health aide by a local or regional health organization as those terms are defined in AS 18.28.100.



Greater Fairbanks **Chamber** of Commerce

250 Cushman Street, Suite 2D

(907) 452-1105

Fairbanks, Alaska 99701-4665

FAX: (907) 456-6968

Introduced by: Governmental Affairs Committee  
 Date Introduced: April 14, 1997  
 Date Passed: April 21, 1997  
 Date Transmitted: April 22, 1997

**RESOLUTION 97-042197**

**A RESOLUTION BY THE GREATER FAIRBANKS CHAMBER OF COMMERCE ALLOWING TWELVE-HOUR WORK DAYS/FORTY HOUR WORK WEEKS AT HARD-ROCK SURFACE MINES IN ALASKA.**

**WHEREAS**, the Fairbanks economy is significantly enhanced by a healthy mining industry; and

**WHEREAS**, Two Hundred Forty-One out of Two Hundred Forty-Three employees currently working at Fort Knox Mine are seeking a twelve-hour work day; and

**WHEREAS**, these same miners have requested the State Legislature to pass enabling legislation permitting a twelve-hour work day with overtime being paid over forty hours of work; and

**WHEREAS**, the request also seeks to protect those few miners who do not desire a twelve-hour work day; and

**WHEREAS**, the reasons for the request include more aggregate pay, more time with families, safer shift exchanges and travel; and

**WHEREAS**, forty-nine of fifty of the United States allow mining workers the same hours and conditions as requested; and

**WHEREAS**, Sec. 23.10.060 of Alaska Statutes already has sixteen exemptions to when overtime is paid under the eight-hour work day/forty-hour work week rule. These exemptions allow seamen and employees in agriculture, health care trucking telephone utilities, timber, and union workers in any industry to work up to a twelve-hour work day within forty hours per week before accruing overtime. For all work over twelve hours per day and forty hours per week the mandatory overtime requirement still applies; and

**WHEREAS**, the unorganized employees covered by the provisions of the enabling legislation will still retain the right to organize if they deem it desirable and necessary; and

**WHEREAS**, the enabling legislation will equalize the rights of organized and unorganized workers in surface metal mines in Alaska by allowing them to choose their own destiny as United States citizens, to work with management to establish work schedules and to enhance the freedoms already enjoyed by the groups identified in the sixteen exemptions in existing law; and

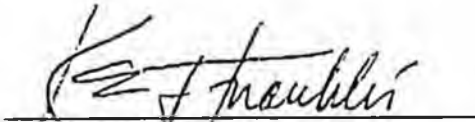
**BE IT RESOLVED** that the Greater Fairbanks Chamber of Commerce encourages the governor, his commissioners, and the Alaska Legislature to undertake a comprehensive review of Section 23.10.060 in order to develop a law that provides workers and employers the freedom to develop the schedule of their choice; and


**BE IT FURTHER RESOLVED** that the Greater Fairbanks Chamber of Commerce encourages the Governor of the State of Alaska, his commissioners, and the Alaska Legislature to give their support to passage of legislation designed to level the playing field for all employees of the surface mining industry.

**BE IT FURTHER RESOLVED THAT**, this resolution be distributed to:

Alaska U.S. Congressional Delegation  
Governor of the State of Alaska  
Alaska State Legislators  
Fairbanks North Star Borough  
City of Fairbanks  
City of North Pole  
Alaska State Chamber of Commerce  
Fort Knox Mine  
Amax Gold, Inc.

**PASSED** in Fairbanks, Alaska this 21st day of April, 1997 by the Greater Fairbanks Chamber of Commerce Board of Director.

  
\_\_\_\_\_  
Kevin J. Krauklis  
Chairman of the Board

  
\_\_\_\_\_  
William J. Robertson  
President/CEO

**HB**

**225**

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE MEMBERS

REPRESENTATIVE NORMAN ROKEBERG, CHAIRMAN  
REPRESENTATIVE JOHN CONDERY, VICE CHAIRMAN  
REPRESENTATIVE BILL HUDSON  
REPRESENTATIVE JOE RYAN  
REPRESENTATIVE JEFFRY SANDERS  
REPRESENTATIVE TOM BRICE  
REPRESENTATIVE GENE KUBINA  
COMMITTEE AIDE, SHIRLEY ARMSTRONG  
COMMITTEE SECRETARY, CATHY WOOD  
COMMITTEE HEARING ROOM 17 STATE CAPITOL



INTERIM:  
716 WEST 4TH AVENUE, SUITE 640  
ANCHORAGE, AK 99501  
PHONE: (907) 258-8191  
FAX: (907) 258-2916

SESSION:  
STATE CAPITOL, ROOM 24  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4954  
FAX: (907) 465-2040

## Labor and Commerce Committee

**L&C Has Not Received A Fiscal Note**  
**From The Effected Departments**

02/11/98  
15:12:43

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
TCN:80254 SCHEDULED FOR:02/11/98 15:15 TO 17:15  
PUBLIC HEARING HOUSE LABOR & COMMERCE

LTN1150  
BY:BET  
FOR:BET

LOCATION:BETHEL  
HB 323

THEODORE R SIMMONS

LKESPA

TESTIFY

02/11/98  
15:25:40

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
TCN:80254 SCHEDULED FOR:02/11/98 15:15 TO 17:15  
PUBLIC HEARING HOUSE LABOR & COMMERCE

LTN1150  
BY:BAR  
FOR:BAR

LOCATION:BARROW  
HB 225

MR FRANK SMITH

SELF

TESTIFY

02/11/98  
15:26:22

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
TCN:80254 SCHEDULED FOR:02/11/98 15:15 TO 17:15  
PUBLIC HEARING HOUSE LABOR & COMMERCE

LTN1150  
BY:ANC  
FOR:ANC

LOCATION:ANCHORAGE  
HB 225

CHUCK O'CONNELL

ASEA/AFSCME #52 TESTIFY

02/11/98  
15:28:18

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
TCN:80254 SCHEDULED FOR:02/11/98 15:15 TO 17:15  
PUBLIC HEARING HOUSE LABOR & COMMERCE

LTN1150  
BY:HOM  
FOR:HOM

LOCATION:HOMER  
HB 323

MRS. VIRGINIA BUCHER

TESTIFY

02/11/98  
15:34:16

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
TCN:80254 SCHEDULED FOR:02/11/98 15:15 TO 17:15  
PUBLIC HEARING HOUSE LABOR & COMMERCE

LTN1150  
BY:DJT  
FOR:DJT

LOCATION:DELTA JCT.

HB 323 MR. DAVID GIBBS  
HB 323 MS. JACKI NELSON-LIZARDI  
HB 323 MS. JAN WRIGLEY

TESTIFY  
TESTIFY  
TESTIFY

02/11/98  
15:38:03

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
TCN:80254 SCHEDULED FOR:02/11/98 15:15 TO 17:15  
PUBLIC HEARING HOUSE LABOR & COMMERCE

LTN1150  
BY:KOD  
FOR:KOD

LOCATION:KODIAK  
HB 323

MS DIANA PISTRO

KIESA REPRESENTATESTIFY

02/11/98 15:43:22 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
MESSAGE FROM: LIOCCJE IN BARROW

LTN1120  
JNU

RE TCN: 80254 SCHEDULED FOR:02/11/98 15:15 TO 17:15  
SPONSOR: HOUSE LABOR & COMMERCE PURPOSE: PUBLIC HEARING

MESSAGE TEXT: FRANK SMITH IS HERE!!!!

02/11/98  
15:50:28

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
TCN:80254 SCHEDULED FOR:02/11/98 15:15 TO 17:15  
PUBLIC HEARING HOUSE LABOR & COMMERCE

LTN1150  
BY:MAT  
FOR:MAT

LOCATION:MATSU

HB 323 MS SANDY PEVAN

TESTIFY



Official Business

### COMMITTEE:

HOUSE LABOR AND COMMERCE  
STANDING COMMITTEE

DATE: FEBRUARY 11, 1998

# SIGN-IN

## Subject of meeting:

HB 225 - APPROVAL OF PUBLIC EMPLOYEE AGREEMENTS

PLEASE PRINT!

NAME	ADDRESS (MAILING) & (ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
------	---------------------------	-------	--------------	-------------------------

Barbara Reed	PO Box 482 FBKS AK 99708	479-2509	NEA-AK-R + ASRTA	No
Harold Cleek	9304 TURN ST. JUNO, AK 99801	789-4123	ASEA/AFSCME #52	yes ✓
Mike McMullen	Box 110201 Juneau, AK	465-4431	DIV. OF PERSONNEL	No ✓
<del>STAN GARDNER</del>	<del>2641 JUNEAU</del>			
Christopher Pace	Box 33594 Juneau 99803	465-5231	ASEA/Local #52	NO
Robert Miller	PO Box 22274 <sup>Juneau</sup> 99807	586-6220	ASEA	Yes ✓
Mary Graham	235 5th St #2 Juneau, AK 99801	586-4938	Myself & ASEA	(Yes) ✓
Mary Lu Lathrop	9189 James Blvd. Juneau, AK	789-9286	ASEA	(no) ✓



Official Business

**COMMITTEE:**

HOUSE LABOR AND COMMERCE  
STANDING COMMITTEE

**DATE:** FEBRUARY 11, 1998

**Subject of meeting:**

HB 323 - PERS CREDIT FOR NONCERTIFICATED  
EMPLOYEES

**SIGN-IN**

**PLEASE PRINT!**

**NAME ADDRESS (MAILING) & (ZIP) PHONE REPRESENTING DO YOU WANT TO TESTIFY?**

SHARON CARTNER	2441 OUTSIDE BLVD NORTH POLE AK 99705	456-4435	BSSA - FBKS EDUCATION SUPPORT STAFF	YES
Guy Bell	6th Floor SOB	465-4460	Retirement Benefits	Yes ✓
KAREN Mahurin	Box 1073 Kenai 99611	283-4697	NPESA	Yes
John Gyr	Juneau	586-3090 \$	NEA-AK	Yes
Bill Murphy				✓



KAREN MANUWAL

Good Afternoon. Thank you Chairman Rokeberg and members of the Labor and Commerce Committee for the opportunity to address you on such an important bill as HB 323.

*an elem school secretary*

I am president of the Kenai Peninsula Educational Support Association, but I speak to you not only on behalf on the member of KPESA but on behalf of all support employees in the State of Alaska. *I have heard legislators say - all we hear from our school emp - fondly hear we all are sch. emp cuz the bill is about a*

*People intend emotional appeal.*

Most times when someone testifies before you they begin with emotional, heart wrenching reasons of why you should vote for this bill. *[I am confident hope of]* that if I can tell you the facts as I see them that you will weigh this carefully and make the right decision.

1. when I began work in the KPBSD in 1981 I received unemployment benefits during the summer months I did not work as the state considered all school support employees as seasonal workers and thus eligible for unemployment

2. when Regan eliminated unemployment for support employees in 847-, our state picked up the bill under SIBS and paid us until 86/87.

3. In 86/87 the State of Alaska made the determination that school support employees were indeed full time year round employees and stopped the eligibility for unemployment benefit. However, we are still considered part time workers under PERS.

My points:

1. if the state of Alaska considers us year round employees why then don't they give us a full year's credit of retirement for a school year worked. *Don't have 17 = 14.*

2. I understand there are seasonal workers who work for the State - they receive partial year's retirement credit, but they also receive unemployment.

3. I understand there are less than full time people who do receive a full

year's retirement credit - those people are elected officials such as school board members, city council members, borough assembly members. I don't understand the logic of allowing them a full year's credit in the same retirement system I am in when they only attend 2 or 3 meetings a month and I work 160 hours a month. ~~I also understand that some employees such as legislative aides, who are also considered seasonal workers do receive a full year retirement credit.~~

4. Under the new tier 3 retirement, where employees need to qualify a formula of 85 - of course the state will save money - our school support employees who must meet the qualification of age plus years of service, given they only get partial years service credit, will die on the job of old age and PERS will be able to save that money.

*= work 40 yrs. + 0 g  
30 years ret  
a employee SA*

Even tho we are part of PERS, school support employees are different than other state workers and must be treated accordingly. Here is what is happening in other states: GIVE EXAMPLES

Last spring this legislature honored me with a resolution after I was named the National Education Association education support ~~employee~~ <sup>person</sup> of the year. I was honored to receive your resolution, but more importantly, I valued your recognition of the work that I do every day in my school. I am not alone - I truly feel blessed to work with such caring, dedicated employees - employees who do put kids and parents first.

*turnover  
stays  
years  
PERS  
come  
close  
50  
on  
for*

I urge you to look at the facts and to make this situation right. The law as it reads now penalizes quality employee for caring enough about kids to work in schools.

*sub group*

*this has to be solved - problem*

Thank you.

*cost shared by employer*

*we understand pay our way*

*turnover rate - employees PERS stays before few vet*

2/11/98

Good Afternoon and thank you Chairman Rokeberg and members of the Labor and Commerce Committee for the opportunity to speak to HB323 for the full year retirement credit for the support personnel in the state of Alaska.

*Thank Rep Binn for introducing Bill*

*represent  
over 200  
Miles*

This issue is very close and dear to my heart as I am a secretary at the Administrative Office in the Fairbanks North Star Borough School District. I have worked for the district for the past 17 years. I am a 9 month employee and have accumulated approximately 13.5 years retirement credit. We are told that we cannot draw unemployment credit as we are educational employees and have our jobs guaranteed for the whole year. The regular teacher's aides are the only employees who are laid off for the summer and have to reapply for jobs in the fall.

This is definitely a hardship for those single parents who have to support children. When they sign up to work for the school district during the summer, they receive temp pay at \$8.13/hour, if there are jobs available. The system is based on a first come, first serve basis. The term education employees refers to teachers and support employees; therefore, I really have a problem understanding why we are singled out in this instance.

The state should make a determination that if we are considered full time employees, we should then get full time credit not part time credit. If we were seasonal employees, we would also get part time credit. Is this fair? Our employees are paid at least half as much as teachers. We are also a part of the school environment. We help to provide quality education for all students. Our employees take these jobs because they are committed to children. This is your opportunity to make this equitable for all education employees. We are constantly told that we are a vital part of a child's education. We should receive the same type of retirement as all education employees. We are not second class citizens!

Who is always left watching a child after school when the parents do not show up? Who does the parent always call when they want an honest answer to their questions? Most of the time, these employees do not get paid overtime or given comp time for these emergencies/and or situations. They are just expected to do it!

We feel that this is an unjust situation and should be corrected. If school districts are to keep employees on the job, they are going to have to do better and provide better benefits. The state can start to improve this by providing the full time retirement credit that all education employees deserve!

*Sharon Carter*

02/11/98  
16:50:17

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (TESTIFIERS ONLY)  
TCN:80254 SCHEDULED FOR:02/11/98 15:15 TO 17:15  
PUBLIC HEARING HOUSE LABOR & COMMERCE

LTN1150  
BY:JNU  
FOR:ALL

~~LOCATION: ANCHORAGE~~  
~~HB 225~~ CHUCK O'CONNELL ASEA/AFSCME #52 TESTIFY

~~LOCATION: BARROW~~  
~~HB 225~~ MR. FRANK SMITH SELF TESTIFY

LOCATION: BETHEL  
HB 323 THEODORE R SIMMONS LKESPA TESTIFY ✓

LOCATION: DELTA JCT.  
HB 323 MR. DAVID GIBBS TESTIFY  
HB 323 MS. JACKI NELSON-LIZARDI TESTIFY  
HB 323 MS. JAN WRIGLEY TESTIFY

LOCATION: HOMER  
HB 323 MRS. VIRGINIA BUCHER TESTIFY  
HB 323 MS. CYNTHIA FARRENS TESTIFY

LOCATION: KODIAK  
HB 323 MS DIANA PISTRO KIESA REPRESENTATIVE TESTIFY

LOCATION: MATSU  
HB 323 MS SANDY PEVAN TESTIFY

~~LOCATION: SITKA~~

# Alaska State Legislature



REPRESENTATIVE BILL HUDSON

State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-3744  
Fax (907) 465-2273

## COMMITTEES

CO-CHAIR  
Resources Committee

MEMBER  
Transportation Committee  
Labor & Commerce Committee

## MEMORANDUM

**TO:** Rep. Norm Rokeberg, Chair  
House Labor and Commerce Committee

**FROM:** Representative Bill Hudson *Bill*

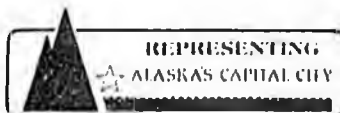
**SUBJECT:** Hearing Request, HB 225

**DATE:** January 19, 1998

I respectfully request that you schedule a 2<sup>nd</sup> hearing of HB 225 "Approval of Public Employee Agreements", before the House Labor and Commerce Committee at your earliest convenience. During the last hearing, you had requested that I get a legal opinion on the constitutionality of the legislation. I have done so, and have attached a copy of that opinion.

HB 225, if enacted, would add new language to the section of the law (AS 23.40.215) that addresses the monetary terms of a collective bargaining agreement. This new language states that once the legislature agrees to the terms of a collective bargaining agreement by funding the first year of a multi-year contract, they approve all the terms in the contract, pending yearly legislative appropriation. Once the legislature enters into a multi-year contract, negotiated in good faith, I believe it is the fair and right thing to honor the negotiated contract for its entirety. The time for the legislature to disagree with the terms of a negotiated multi-year contract would be before ever appropriating funds during the first year of such a contract.

Thank you for your consideration, I would really appreciate being able to move this legislation on to it's next committee.



# 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 9, 1998

**SUBJECT:** Legislative approval of collective bargaining agreements (HB 225)

**TO:** Representative Bill Hudson  
Attn: Melinda Hofstad

**FROM:** Teresa B. Cramer *TBC*  
Legislative Counsel

You have asked whether HB 225 is constitutionally infirm because it will create a contract binding on the next legislature. In my opinion, the answer is no. While the bill will permit one legislature to ratify a contract the terms of which are binding on the state in the future, it does not require a future legislature to appropriate funds for the contract. The bill is therefore not vulnerable to constitutional attack.

The bill amends AS 23.40.215(a) to provide that if the legislature funds any monetary terms in a multi-year collective bargaining agreement, all of the monetary terms in the agreement are approved.<sup>1/</sup> The "monetary terms of an agreement" are defined as

the changes in the terms and conditions of employment resulting from an agreement that will require an appropriation for their implementation or will result in a change in state revenues or productive work hours for state employees[.]

AS 23.40.250(4). Under the bill, all of the monetary terms take effect, and become binding on the state as a contract, when the monetary terms for one year are approved. Under current law, the monetary terms of multi-year contracts in which there are changes to the monetary terms from one year to the next must be approved each year that there is a change. If the monetary terms do not change from one year to the next, there is no requirement for legislative approval of the contract. In that case, the compensation levels previously set under the contract are binding on the state.

---

<sup>1/</sup> As drafted, this would appear to mean that approval of monetary terms in the second year of a three-year contract would retroactively approve any monetary terms that were included in the first year of the contract, as well as terms that would only take effect in the third year.

A 1989 case decided by the Alaska Supreme Court appeared to suggest that the state constitution required that the monetary terms of a collective bargaining agreement be approved by the legislature. See Pub. Employees Local 71 v. State, 775 P.2d 1062 (Alaska 1989). The Local 71 case involved a decision by the Legislature not to fund the monetary terms that were to take effect in the third year of a collective bargaining contract. In the previous year, the legislature had approved the monetary terms for the second year of the contract. The court held that each year, the monetary terms of the contract were subject to independent legislative approval, citing art. IX, § 13, which prohibits expenditure of state money except in accordance with appropriations made by law. In a footnote in a later case, the court disapproved the earlier holding, saying :

In Pub. Employee Local 71 v. State, 775 P.2d 1062, 1064 (Alaska 1989), we addressed the question whether a collective bargaining agreement was subject to legislative approval of its monetary terms. We answered the question in the affirmative based on the terms of the statute. In so doing we went beyond statutory interpretation and suggested that legislative approval was mandated by the constitution, stating:

Additionally, under Alaska's constitutional system, funding of an agreement is constitutionally relegated to the legislature. Alaska Const. art. IX, § 13. The Public Employment Relations Act recognizes this constitutional requirement in AS 23.40.250(9).<sup>21</sup>

*Id.* at 1064.

We now believe that this statement was unnecessary to the decision in Local 71, constitutes overbroad dictum, and is hereby disapproved.

Munic. of Anchorage v. Police Dept., 839 P.2d 1080, 1091, footnote 28, (Alaska 1992).

Contracts create rights in the parties to the contract. While the legislature cannot be required to appropriate money to fund a contract, the obligations under the contract will give the parties to the contract a right to seek enforcement.

The Alaska Supreme Court reached that result in Zerbetz v. Alaska Energy Center, 708 P.2d 1270 (Alaska 1985). In the spring of 1981, the board of directors of the Alaska Energy Center had entered into a three-year employment contract for an executive director. The contract contained provisions giving the executive director the right to declare the contract terminated in the event that the board attempted to restrict his authority or the legislature failed to appropriate a certain minimum level of funding or acted to amend the statutes that

---

<sup>21</sup> The reference to AS 23.40.250(9) in footnote 28 of the Police Dep't. decision appears to be a typographical error. Paragraph (9) defines "terms and conditions of employment." The Local 71 opinion actually cites AS 23.40.215(a), the subsection providing for legislative approval of monetary terms of agreements. See Local 71 at 1064.

governed the energy center. The contract also provided that if the contract were terminated under those circumstances, the energy center or the state was required to pay the executive director the entire compensation that he would have earned over the full three-year term. The legislature significantly reduced the operating budget for the center for the next fiscal year and restricted use of the capital appropriation. The executive director claimed he received a notice of termination, and for purposes of the appeal, the court accepted that assertion. The state refused to pay him the compensation he claimed was due. The court held that under a statute that gave the board the power to employ an executive director, the center's board of directors could enter into a three-year employment contract with the executive director. The fact that the legislature had failed to appropriate money to pay obligations of the center did not make the contract void. Instead, the court found that the executive director had contract claims that he was entitled to seek to enforce in court. If a judgement were awarded and the state should refuse to pay them (lacking an appropriation from which to do so), then the executive director could seek to enforce the claims under AS 09.50.270, which states:

**Sec. 09.50.270. Payment of judgment against the state.** An attachment or execution may not issue against the state. When a final judgment is rendered against the state in an action, the clerk of the court shall immediately transmit a certified copy of the judgment to the Department of Administration which shall either approve payment of the judgment against the state if a sufficient appropriation exists for payment, or audit the amount and transmit a copy to the legislature with the recommendation that an appropriation be made for its payment.

(The court then examined the employment contract and found a number of the provisions void as against public policy, but did hold that as a matter of law it was not able to declare that two of the provisions were void. Accordingly, it remanded the case to the superior court.)

The Zerbetz decision makes clear that the state can enter into a three-year employment contract. Further, while legislative appropriations may limit the ability of the state to satisfy the obligations of the contract, the fact that there is insufficient money appropriated for that purpose does not serve to invalidate the contract: it simply gives rise to a claim against the state to the extent that the contract terms have not been satisfied.

In the case of a collective bargaining contract, the state must compensate employees according to the terms of the contract unless there is a limit placed on its power to do so. The legislature, through the appropriation process, can limit the amount appropriated for personal services or place limitations on the use of personal service appropriations. If the legislature appropriates less money for personal services than full funding under the contracts would require, the state would have to meet the contract compensation provisions and would have to reduce the number of employees or reduce the time that existing employees worked in order to stay within budget.

Representative Bill Hudson

March 9, 1998

Page 4

The legislature can place limitations on appropriations to prohibit the state from using any of the money appropriated for paying the monetary terms of the collective bargaining contract. The state would then have no ability to use the appropriation to pay the monetary terms and the employees would have a cause of action against the state for the amounts not paid. The employees could seek legislative funding for an award of back pay.

Please let me know if you have additional questions on this matter. I apologize for the delay in responding to your request.

TC:pl:jr  
98-047.plm

# ALASKA STATE LEGISLATURE

## House of Representatives

COMMITTEE MEMBERS:

REPRESENTATIVE NORMAN ROKEBERG, CHAIRMAN  
REPRESENTATIVE JOHN COWDERY, VICE CHAIRMAN  
REPRESENTATIVE BILL HUDSON  
REPRESENTATIVE JOE RYAN  
REPRESENTATIVE JERRY SANDERS  
REPRESENTATIVE TOM BRICE  
REPRESENTATIVE GENE KUBINA  
COMMITTEE AIDE, SHIRLEY ARMSTRONG  
COMMITTEE SECRETARY, CATHY WOOD  
COMMITTEE HEARING ROOM 17 STATE CAPITOL




INTERIM:  
716 WEST 4TH AVENUE, SUITE 640  
ANCHORAGE, AK 99501  
PHONE: (907) 258-8191  
FAX: (907) 258-2916

SESSION:  
STATE CAPITOL, ROOM 24  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4954  
FAX: (907) 465-2040

### Labor and Commerce Committee

#### MEMORANDUM

TO: Representative John Cowdery  
Representative Bill Hudson  
Representative Joe Ryan  
Representative Jerry Sanders  
Representative Tom Brice  
Representative Gene Kubina

FROM: Shirley Armstrong, Staff   
House Labor & Commerce Committee

DATE: April 21, 1998

SUBJECT: **Additional Backup For Committee Bill Packet - HB 225**

---

Attached is information that has come to the House Labor and Commerce Committee since our committee hearing.

Please insert in your HL&C, HB 225 committee packet.

Attachment

# STATE OF ALASKA

## DEPARTMENT OF LAW

### OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

☐ 1031 WEST 4TH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 269-5100  
FAX: (907) 276-3697

☐ KEY BANK BUILDING  
100 CUSHMAN ST., SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 451-2811  
FAX: (907) 451-2846

☑ P.O. BOX 110300-DIMOND COURT HOUSE  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 465-6735

April 20, 1998

VIA HAND DELIVERY

Representative Bill Hudson  
State Capitol, Room 108  
Juneau, AK 99801-1182

Re: HB 225

Dear Representative Hudson:

We write to point some possible interpretive and constitutional difficulties with HB 225. We apologize for the delay.

The bill would amend AS 23.40.215(a) by adding the following: "[a]ction by the legislature to fund any monetary term of a collective bargaining agreement . . . constitutes approval of all of the monetary terms of a contract." Standing alone, the foregoing sentence suggests that the bill is designed to require default funding; that is, an appropriation for one monetary term constitutes an appropriation for any term, even without an express appropriation. Default funding is clearly not permitted under the Alaska Constitution. 1983 Inf. Op. Att'y Gen. at 383 (May 18; 366-612-83); Public Safety Employees Association v. State (PSEA), 895 P.2d 981, 985-7 and 987 n.7 (Alaska 1995), aff'd on reh. 902 P.2d 1335 (Alaska 1995)

However, at the first hearing on the bill, the testimony indicates that your intent was to address what you perceive to be an ambiguity in AS 23.40.215, and that the bill is intended to approve the funding of multiple years of a contract, while recognizing that the legislature must fund the terms from year to year. A March 9, 1998, memorandum from the legislative legal services office suggests that the bill might in fact create a right of enforcement even if the terms are not funded, something which your testimony suggests you did not intend.

To: Representative Hudson  
Re: HB 225

April 20, 1998  
Page 2

We do not believe that the present statute is ambiguous and for the reasons set out below, we disagree with the notion that the law would permit enforcement of monetary terms for which there has been no appropriation.

First, AS 23.40.215 is quite clear: the monetary terms of a collective bargaining agreement are subject to legislative funding. Were there any doubt about this, it was laid to rest in Public Employees Local No. 71 (Local 71), 775 P.2d 1062, 1063-4 (Alaska 1989). The matter has previously been addressed in the trial courts with the same result. Alaska Pub. Employees' Assn. v. State, No. 1JU-79-538 Civ and Public Employees' Local 71, AFL-CIO v. State, No. 1JU-79-983 Civ (consolidated) (Alaska Super., Dec. 24, 1979); Alaska Tri-Trades Pub. Serv. Council v. State, C.A. No. 75-6831 E. (3rd Distr. Alaska Super., 1975). The Alaska Supreme Court had no difficulty in finding that monetary terms awarded by an arbitrator were also subject to legislative funding. PSEA, 895 P.2d at 987-8. Hence, it would not appear that there is any ambiguity or doubt about the meaning of AS 23.40.215(a) as presently written.

Second, neither the present law nor HB 225 create a right to enforce a monetary term beyond a fiscal year. AS 23.40.215(a) conditions the payment of such terms on an appropriation. Hence, the contract term is not effective without an appropriation. This is evident from the plain meaning of the statute, and from the case law. In PSEA, the court made it quite clear:

If an arbitration award affects "the monetary terms of any agreement", legislative approval is required *before the term becomes effective.*

895 P.2d at 986, quoting State v. PSEA, 798 P.2d at 1285 n. 7 (*emphasis supplied*) Indeed PSEA argued to the court that failure of the state to pay the initial award in the case and to pay the penalty imposed for that failure, amounted to the impairment of its contract rights. The court rejected the union's argument in a footnote. 895 P.2d at 987, n. 8.

The monetary terms of collective bargaining agreements reached under the Public Employee Relations Act (PERA) are, as a matter of law not in effect unless and until there is an

To: Representative Hudson  
Re: HB 225

April 20, 1998  
Page 3

appropriation. This was also the holding of the first case rejecting a challenge to the legislature's failure to fund monetary terms of a contract. In the case of Alaska Tri-Trades Pub. Serv. Council v. State of Alaska, C.A. No. 75-6831 E. (3rd Distr. Super. Ct., 1975) the Alaska Superior Court for the Third Judicial District ruled that the monetary terms of a collective bargaining agreement are contingent upon appropriation by the legislature. The same view was adopted by the superior court for the First Judicial District in the consolidated cases of Alaska Pub. Employees' Ass'n v. State, No. 1JU-79-538 CIV, and Public Employees' Local 71, AFL-CIO v. State, No. 1JU-79-983 CIV (Alaska Super. Ct., Dec. 24, 1979). Those cases involved breach of contract suits challenging the legislature's refusal to appropriate funds for the payment of wage provisions negotiated by the executive branch with two public employee unions. The court stated:

It is clear to the court that *no enforceable rights* arise out of the monetary terms of agreement negotiated pursuant to the Public Employment Relations Act until the legislature appropriates money to meet the monetary terms.

(*emphasis added*).

There has been no change in the law since then: As recently as last year, the Anchorage Superior Court granted summary judgment to the University of Alaska and the state where legislature failed to appropriate the funds requested for the monetary terms. ACCFT v. University of Alaska and State of Alaska, Case No. 3AN-95-7283 Civil (Order of October 7, 1997) (appeal pending)

The legislative legal services office proposes that under Zerbetz v. Alaska Energy Center, 708 P.2d 1270 (Alaska 1985), employees could sue the state if the monetary terms of the contract are not funded and the state does not pay them by reduction in programs, layoff, reduction in hours and so on. Teresa B. Cramer, Legislative Counsel, Memorandum to Rep. Bill Hudson, March 9, 1998 (March 9 memo) This view reads too much into Zerbetz, and does not take into account the substantial differences between Zerbetz's

To: Representative Hudson  
Re: HB 225

April 20, 1998  
Page 4

contract and collective bargaining agreements, not to mention the state's usual practice with respect to multi-year contracts in general.

Zerbetz's multi-year contract with the Energy Center allowed him to sue for the value of his entire contract for certain events and nonoccurrences. The legislature de-funded the Center. The state argued, among other things, that Zerbetz's contract was void as against public policy. The court agreed that certain provisions were void, but held that Zerbetz was entitled to further hearing to determine whether the clause permitting him to demand the value of the entire contract was valid, based on the intent of the parties, Zerbetz's expectations, whether the agreement was in fact a penalty which could not be enforced, and like matters. 708 P.2d at 1282-4. Significantly, the contract was apparently not governed by statutory provisions that conditioned contract terms on an appropriation. AS 23.40.215(a) is such a condition. Compare AS 36.30.390 mandating the cancellation of multi-year contracts where funds are not appropriated in a subsequent year. Nor did it have, as all of the state's collective bargaining agreements have, a clause indicating that the monetary terms of the agreements are not effective without an appropriation. In short, there is no breach of contract issue of the sort found in Zerbetz, where the contract or monetary term is not effective at all if the money is not appropriated. This is forcefully brought home in the case law cited above. Indeed we imagine that few state multi-year contracts now lack a provision which conditions payment on appropriation.

The March 9 memo also suggests that the executive branch must absorb the costs of a collective bargaining agreement even if the legislature does not fund them. March 9 memo at 3. The Alaska Supreme Court disagrees. Public Safety Employees Association v. State, 895 P.2d 981, 985-7 and 987 n.7 (Alaska 1995), aff'd on reh. 902 P.2d 1335 (Alaska 1995)

We believe that the present wording of the bill would not in fact have the effect of making binding all of the monetary terms of all of the years of a multi-year contract. The first sentence of AS 23.40.215(a) would still appear to require legislative funding for monetary terms, thus rendering funding a precondition to the effectiveness of such terms, and not creating any right of action for the balance. However, the debate on the bill may have

To: Representative Hudson  
Re: HB 225

April 20, 1998  
Page 5

created the expectation that it would, and thus litigation may be the result.

The question which prompted the sponsor's request for a legal opinion was whether HB 225 is constitutionally infirm. March 9 memo at 1. We believe that if interpreted in the manner suggested by the committee testimony and that of legislative counsel, it might well be. It is true as legislative counsel notes, that the holding of the Local 71 case, that AS 23.40.215(a) is an expression of the Alaska Constitution's mandate that funding is for the legislature under Alaska Const. art. IX, sec. 13, was dictum and overruled as such in a subsequent case. March 9 memo at 2; Local 71 at 1064; Municipality of Anchorage v. Anchorage Police Department Employees Association, 839 P.2d 1080, 1091 n. 28 (Alaska 1992). However, the significance of this may be limited. The court was acting consistent with a longstanding tradition in appellate jurisprudence, that a reviewing court will not reach constitutional issues if a matter can be decided on other grounds. If litigation were to result from this bill, the court might very well revisit the issue. It would likely reach the same conclusion it reached before, that the approval of monetary terms under PERA is a constitutional precondition to the effectiveness of those terms.

In summary, while we disagree that the bill as worded would have the effect of creating an actionable right to the payment of monetary terms for any year of a contract, we are concerned that it would pose interpretive problems, and is not really consistent with constitutional principles, the state's past and present practices with respect to collective bargaining agreements, or the state's practices with respect to multi-year contracts in general.

We do note that the parties negotiated their contracts in good faith, and that they should likewise be funded in good faith. However, there would seem to be no way that the legislature by statute can alter the requirement that contract terms are subject to appropriation for their funding.

Thank you for the opportunity to comment.

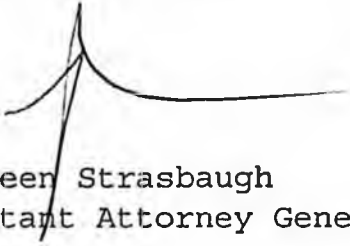
BRUCE M. BOTELHO

To: Representative Hudson  
Re: HB 225

April 20, 1998  
Page 6

ATTORNEY GENERAL

By:



Kathleen Strasbaugh  
Assistant Attorney General

cc: Rep. Norman Rokeberg, Chair  
House Labor and Commerce Committee

Patrick Pourchot, Legislative Director  
Office of the Governor

Mark Boyer, Commissioner  
Department of Administration

Annalee McConnell, Director  
Office of Management and Budget  
Office of the Governor

Rep. Gene Kubina, Member  
House Labor and Commerce Committee

# ALASKA STATE LEGISLATURE

## House of Representatives

COMMITTEE MEMBERS:

REPRESENTATIVE NORMAN ROKEBERG, CHAIRMAN  
REPRESENTATIVE JOHN COWDERY, VICE CHAIRMAN  
REPRESENTATIVE BILL HUDSON  
REPRESENTATIVE JOE RYAN  
REPRESENTATIVE JERRY SANDERS  
REPRESENTATIVE TOM BRICE  
REPRESENTATIVE GENE KUBINA  
COMMITTEE AIDE, SHIRLEY ARMSTRONG  
COMMITTEE SECRETARY, CATHY WOOD  
COMMITTEE HEARING ROOM 17 STATE CAPITOL



INTERIM:  
716 WEST 4TH AVENUE, SUITE 640  
ANCHORAGE, AK 99501  
PHONE: (907) 258-8191  
FAX: (907) 258-2916

SESSION:  
STATE CAPITOL, ROOM 24  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4954  
FAX: (907) 465-2040

### Labor and Commerce Committee

#### MEMORANDUM

TO: Representative John Cowdery  
Representative Bill Hudson  
Representative Joe Ryan  
Representative Jerry Sanders  
Representative Tom Brice  
Representative Gene Kubina

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

DATE: March 7, 1998

SUBJECT: Additional Bill Information - HB 225

---

Attached is information that has come to the House Labor and Commerce Committee since our committee hearing.

Attachments

**\* PROVIDED BY DEPARTMENT OF ADMINISTRATION/DIVISION OF PERSONNEL  
Bargaining Unit Summary of Negotiations**

Unit	Expires	Status
1. General Government (GGU)	6/30/99	<p><b>Current agreement</b> effective July 1, 1996, through June 30, 1999. Effective July 1, 1996, the salary schedules were increased by 1.4%. Effective July 1, 1997, the salary schedules were increased by 1.5%. The salary schedules will be adjusted by one half of the increase in the Anchorage Consumer Price Index (CPI-U), not to exceed 1.5%, in 1998. The State's monthly health insurance contribution may increase up to \$50 for each eligible employee per month, with future increases matched by employee payroll deduction. Martin Luther King, Jr. Day will be observed by Class One employees. January 1, 1997, the employee's birthday is no longer observed. February 1999, Lincoln's Birthday will no longer be observed. Effective July 1, 1996, Correctional Officers converted to a system of personal leave, with a 60% conversion of sick leave hours to personal leave. Overtime after 37.5 hours of work in a workweek, versus 37.5 in pay status. Correctional Officers became a separate bargaining unit effective January 21, 1998.</p>
2. Labor, Trades and Crafts (LTC)	6/30/99	<p><b>Current agreement</b> effective July 1, 1996, through June 30, 1999. Effective July 1, 1996, the wage schedules were increased by 1.4%. Effective July 1, 1997, the wage schedules were increased by 1.5%. The wage schedules will be adjusted by one-half of the increase in the Anchorage Consumer Price Index (CPI-U), not to exceed 1.5%, in 1998; a 4.5% increase is guaranteed if the CPI should exceed 9% over the term of the agreement. Tool allowance increased by \$10 per month. The State's monthly contribution to the Public Employees Local 71 Health and Welfare Trust increased by \$10 per month effective July 1, 1997. The increase was matched by an increase in payroll deductions from employees. The State's monthly contribution may increase by up to an additional \$16. Any increase in State contribution will be matched by payroll deduction from employees. Employees in the bargaining unit during the pay period July 1 through July 15, 1996, received a one-time addition of two days of leave to their personal leave accounts. Holidays proclaimed by the president of the United States will no longer be recognized.</p>
3. Supervisory (SU)	06/30/99	<p><b>Current agreement</b> effective July 1, 1996, through June 30, 1999. Includes salary schedule adjustment for overtime eligible employees of 1.4% on July 1, 1996. Effective July 1, 1997, the salary schedules were increased by 1.5%. The salary schedules will be adjusted by one-half of the increase in the Anchorage Consumer Price Index (CPI-U), not to exceed 1.5%, in 1998; a 4.5% increase is guaranteed if the CPI should exceed 9% over the term of the agreement. The salary schedule for overtime ineligible bargaining unit members was increased by 1.5% on July 1, 1996, again on July 1, 1997, and will increase by 1.5% on July 1, 1998. \$50,000 is allocated for supervisory training each year of the agreement. The standby rate of pay for overtime ineligible employees is increased from .75 hours pay per standby day to 1.25.</p>

Note: Negotiations generally commence 90-120 days prior to contract expiration and may extend beyond termination date. Interest arbitration is possible in all units with Class 1 employees. GGU, SU, PSEA, LTC, CEA, Correctional Officers

The CPI for Anchorage for the second half of 1997 will be available on February 24, 1998

Updated 1/20/98, MPM

## Bargaining Unit Summary of Negotiations

Unit	Expires	Status
4. Inlandboatmen (IBU)	5/31/99	<b>Current agreement</b> effective June 9, 1996, through May 31, 1999. Effective July 1, 1996, the salary schedules were increased by 1.4%. Effective July 1, 1997, the salary schedules were increased by 1.5%. The salary schedules will be adjusted by one half of the increase in the Anchorage Consumer Price Index (CPI-U), not to exceed 1.5%, in 1998; a 4.5% increase is guaranteed if the CPI should exceed 9% over the term of the agreement.
5. Marine Engineers (MEBA)	10/31/99	<b>Current agreement</b> effective November 1, 1996 through October 31, 1999. Effective July 1, 1996, the wage schedules were increased by 1.4%. Effective July 1, 1997, the wage schedules were increased by 1.5%. The wage schedules will be adjusted by one half of the increase in the Anchorage Consumer Price Index (CPI-U), not to exceed 1.5%, in 1998; a 4.5% increase is guaranteed if the CPI should exceed 9% over the term of the agreement. Lincoln's Birthday will be treated as a floating holiday. Personal leave accrual for M/V BARTLETT AND TUSTUMENA increased to 14.75 days per month.
6. Masters, Mates & Pilots (MM&P)	5/31/99	<b>Current agreement</b> effective June 1, 1996, through May 31, 1999. Effective July 1, 1996, the wage schedules were increased by 1.4%. Effective July 1, 1997, the wage schedules were increased by 1.5%. The wage schedules will be adjusted by one-half of the increase in the Anchorage Consumer Price Index (CPI-U), not to exceed 1.5%, in 1998; a 4.5% increase is guaranteed if the CPI should exceed 9% over the term of the agreement. Southwest Deck Officers will be paid for the 31st day of the month if worked. Lincoln's birthday will be treated as a floating holiday.
7. Public Safety (PSEA)	12/31/98	<b>Current agreement</b> effective January 1, 1996, to December 31, 1998. Effective July 1, 1996, the salary schedules were increased by 1.5%. Effective July 1, 1997, the salary schedules were increased by 1.5%, and will be increased by 1.5% again on July 1, 1998. Effective July 1, 1996, the State's health insurance contribution was increased to \$495. Effective July 1, 1997, the State's health insurance contribution increased to \$520.
8. Correspondence Teachers	6/30/99	<b>Current agreement</b> effective July 1, 1996, through June 30, 1999. Effective July 1, 1996, the salary schedule was increased by 1.4%. Effective July 1, 1997, the salary schedule was increased by 1.5%. The salary schedule will be adjusted by one half of the increase in the Anchorage Consumer Price Index (CPI-U), not to exceed 1.5%, in 1998. The unit choose to join a health trust with the State's contribution rate fixed at \$423.50, the employees paying any balance.

**Note:** Negotiations generally commence 90-120 days prior to contract expiration and may extend beyond termination date. Interest arbitration is possible in all units with Class 1 employees: GGU, SU, PSEA, LTC, CEA, Correctional Officers

The CPI for Anchorage for the second half of 1997 will be available on February 24, 1998.

Updated 1/20/98, MPM

## Bargaining Unit Summary of Negotiations

Unit	Expires	Status
9. Alaska Vocational Technical Center (AVTEC)	06/30/99	<b>Current agreement</b> effective July 1, 1996, through June 30, 1999. Effective July 1, 1997, the salary schedule was increased by 1.5%. The salary schedule will be adjusted by one half of the increase in the Anchorage Consumer Price Index (CPI-U), not to exceed 1.5%, on July 1, 1998. The state's monthly health insurance contribution increased to \$450 per month for each eligible employee the employer provided health plan changed to a flexible benefits plan.
10. Confidential (K)	06/30/98	<b>Current agreement</b> effective July 1, 1996, through June 30, 1998. Effective July 1, 1997, the salary schedules were increased by 1.5%. All full-time employees will be salaried. Negotiation of successor agreement expected to begin in January.
11. Mt. Edgecumbe Teachers	06/30/98	<b>Current agreement</b> effective July 1, 1994. Extended through June 30, 1998. Salary schedule increased 1.6%, 2%, and 3% July 1, 1994, 1995, and 1996 respectively; unit was moved to the employer's health insurance plan, with the option to convert to a health trust on or after July 1, 1996 at \$450 per month; leave accrual capped at the five year rate; teacher sabbatical at state's sole discretion available after seven years. Negotiations for successor to begin February 7, 1998.
12. Correctional Officers		New unit effective January 21, 1998. Represented by Public Safety Employees Association. Negotiations expected to commence in immediate future.

Note. Negotiations generally commence 90-120 days prior to contract expiration and may extend beyond termination date. Interest arbitration is possible in all units with Class 1 employees: GGU, SU, PSEA, LTC, CEA, Correctional Officers

The CPI for Anchorage for the second half of 1997 will be available on February 24, 1998.

Updated 1/20/98, MPM

exercise jurisdiction over unfair labor practice claims which are the subject of pending grievance procedures not yet exhausted where it appears that pursuing the grievance procedures would be futile. *Public Safety Employees Ass'n v. State*, 799 P.2d 315 (Alaska 1990).

**Availability of statutory remedies.** — The availability of arbitration does not preclude statutory remedies. *Public Safety Employees Ass'n v. State*, 799 P.2d 315 (Alaska 1990).

**Statutory violations.** — Exclusion of grievances involving involuntary transfers from binding arbitration in a provision of the collective bargaining agreement between the state and a union, the *Public Safety Employees Association*, violates this section. *Hemmen v. State, Dep't of Pub. Safety*, 710 P.2d 1001 (Alaska 1985).

**Applied in** *Hafing v. Inlandboatmen's Union*, 585 P.2d 870 (Alaska 1978).

**Sec. 23.40.212. Agreement with the Board of Regents.** (a) The Board of Regents of the University of Alaska may delegate to the Department of Administration its authority under AS 23.40.070 — 23.40.260 to negotiate with an organization for an agreement.

(b) The Department of Administration shall participate in the negotiations between the Board of Regents and an organization. An agreement between the board and an organization requires the approval of the department. (§ 1 ch 148 SLA 1978)

**Sec. 23.40.215. Funding and legislative approval.** (a) The monetary terms of an agreement entered into under AS 23.40.070 — 23.40.260 are subject to funding through legislative appropriation.

(b) The Department of Administration shall submit the monetary terms of an agreement to the legislature within 10 legislative days after the agreement of the parties, if the legislature is in session, or within 10 legislative days after the convening of the next regular session. The legislature shall advise the parties by concurrent resolution if it approves or disapproves of the monetary terms within 60 legislative days after the agreement is submitted to the legislature. The approval of the monetary terms of an agreement under this subsection is a nonbinding, advisory expression of legislative intent. If within 60 legislative days after the agreement is submitted the legislature advises the parties by concurrent resolution that it disapproves the monetary terms of the agreement, the parties may resume negotiations.

(c) Notwithstanding (b) of this section, the monetary terms of an agreement entered into between a school district or regional educational attendance area and its employees are not subject to approval by the legislature. (§ 2 ch 113 SLA 1972; am § 1 ch 10 SLA 1984; am § 5 ch 1 SLA 1992)

**Effect of amendments.** — The 1992 amendment, effective March 26, 1992, added subsection (c).

**Opinions of attorney general.** — To the extent the cost of negotiated group life and health insurance

coverage exceeds what the State would have paid under its employer-sponsored plan, the negotiated coverage is subject to legislative approval under this section. January 1978, Op. Att'y Gen.

#### NOTES TO DECISIONS

**Applicability to municipalities.** — Subsection (a) applies to political subdivisions of the state; although the terms of subsection (b) refer only to the state, subsection (a) predates subsection (b) and nothing indicates an intent to make subsection (a) inapplicable to municipalities. *Fairbanks Police Dept Chapter v. City of Fairbanks, Sup. Ct. Op. No. 4365* (File No. S-7060), P.2d (1996).

**Applicability to arbitration awards.** — The legislative appropriation requirement of subsection (a) applies to arbitration awards under AS 23.40.200(b). *Fairbanks Police Dept Chapter v. City of Fairbanks, Sup. Ct. Op. No. 4365* (File No. S-7060), P.2d (1996).

**Dictum disapproved regarding constitutional mandate for legislative approval of agreement.** — Dictum in *Public Employees' Local 71 v. State*, 775 P.2d 1062 (Alaska 1989), that legislative approval of

the monetary terms of a collective bargaining agreement is mandated by the Alaska Constitution was disapproved as overbroad dictum unnecessary to the decision in that 1989 case. *Municipality of Anchorage v. Anchorage Police Dept Employees Ass'n*, 839 P.2d 1080 (Alaska 1992).

**Accrual of penalties for nonpayment.** — The language of the Public Employment Relations Act mandates that "monetary terms of any agreement" entered into under its provisions "are subject to funding through legislative appropriation." Since the union does not contend that the geographic differential increases fall outside the definition of a "monetary term of an agreement," the statute appears to compel legislative approval. Hence, penalties for nonpayment would not accrue until the date when legislative approval is obtained. *Public Safety Employees Ass'n Local 92 v. State*, 895 P.2d 980 (Alaska 1995).

Applied in *Hafing v. Inlandboatmen's Union*, 585 P.2d 870 (Alaska 1978).

Cited in *Warwick v. State ex rel. Chance*, 548 P.2d 384 (Alaska 1976).

**Sec. 23.40.220. Labor or employee organization dues and employee benefits, deduction and authorization.** Upon written authorization of a public employee within a bargaining unit, the public employer shall deduct from the payroll of the public employee the monthly amount of dues, fees, and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative. (§ 2 ch 113 SLA 1972)

**Sec. 23.40.225. Exemption based on religious convictions.** Notwithstanding the provisions of AS 23.40.220, a collective bargaining settlement reached, or agreement entered into, under AS 23.40.210 that incorporates union security provisions, including but not limited to a union shop or agency shop provision or agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the labor relations agency, the agency shall declare the employee exempt from becoming a member of a labor organization or employee association. The employee shall pay an amount of money equivalent to regular union or association dues, initiation fees, and assessments to the union or association. Nonpayment of this money subjects the employee to the same penalty as if it were nonpayment of dues. The receiving union or association shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor, or employee organization. The union or association shall submit proof of contribution to the labor relations agency. (§ 1 ch 85 SLA 1976)

**Editor's notes.** — Section 2, ch. 85, SLA 1976 provides: "If any portion of AS 23.40.225 is declared unconstitutional or void by a court of competent jurisdiction, then that entire section is void."

**Opinions of attorney general.** — This section does not supplant 18.80.220(a), a general provision against religious discrimination, nor does it violate the "establishment clause" of the Alaska Constitution

where the non-associational rights of all public employees are secured by AS 18.80.220(a). January 13, 1984, Op. Att'y Gen.

A state employee in a collective bargaining unit who does not belong to an organized religion is entitled to an accommodation of his religious opposition to the payment of union dues. January 13, 1984, Op. Att'y Gen.

#### NOTES TO DECISIONS

Applied in *Hafing v. Inlandboatmen's Union*, 585 P.2d 870 (Alaska 1978).

**Sec. 23.40.230. Assistance by Department of Labor.** [Repealed, E.O. No. 77 § 8 SLA 1990.]

**Sec. 23.40.225. Public involvement in school district negotiations.** Before beginning bargaining, the school board of a city or borough school district or a regional educational attendance area shall provide opportunities for public comment on the issues to be addressed in the collective bargaining process. Initial proposals, last-best-offer proposals, tentative agreements before ratification, and final agreements reached by the parties are public documents and are subject to inspection and copying under AS 09.25.110 — 09 25.140. (§ 13 ch 31 SLA 1996)

**Effective dates.** — Section 13, ch. 31, SLA 1996, which enacted this section, took effect August 16, 1996.

**Editor's notes.** — Section 16, ch. 31, SLA 1996

provides that this section, added by ch. 31, SLA 1996, does not affect a collective bargaining agreement in effect on August 16, 1996.

**Sec. 23.40.240. Effect on certain units, representatives, and agreements.** Nothing in this chapter terminates or modifies a collective bargaining unit, recognition of

## NOTES TO DECISIONS

- I. General Consideration.  
II. Arbitration.

## I. GENERAL CONSIDERATION.

**Certain teachers not covered by section.** — Teachers, who are not "public employees" for purposes of this article, are not covered by this section. *Anchorage Educ. Ass'n v. Anchorage Sch. Dist.*, 648 P.2d 993 (Alaska 1982).

**Strikes by teachers.** — Issuance of injunction to end teachers' strike, without separate finding of irreparable harm was not error, since by making these strikes illegal, the legislature has decided that a teachers' strike would cause irreparable harm. *Anchorage Educ. Ass'n v. Anchorage Sch. Dist.*, 648 P.2d 993 (Alaska 1982).

**"Impasse" in negotiations.** — The state may implement unilateral contract changes when negotiations reach an impasse. For Class II employees, an impasse is reached when the parties have reached a good faith impasse and the mediation process has been exhausted. For Class III employees, an impasse is reached when negotiations are deadlocked. *Alaska Pub. Employees Ass'n v. State, Dep't of Admin.*, 776 P.2d 1030 (Alaska 1989).

**State's unilateral contract changes upheld.** — Unilateral contract changes imposed by the state during an impasse in negotiations with public employees, which changes included an extension of work hours, did not deprive the employees of a property interest protected by Alaska Const., art. I, § 18. *Alaska Pub. Employees Ass'n v. State, Dep't of Admin.*, 776 P.2d 1030 (Alaska 1989).

**Applied in *Harling v. Inlandboatmen's Union***, 585 P.2d 870 (Alaska 1978).

## II. ARBITRATION.

**Not exclusive remedy.** — The fact that an arbitrator cannot grant the relief afforded by a statute is an indication that holding arbitration to provide an exclusive remedy would conflict with the statutory purpose. *Public Safety Employees Ass'n v. State*, 658 P.2d 769 (Alaska 1983).

**Applicability of Uniform Arbitration Act.** — Even though this section does provide that interest arbitration shall be conducted under AS 09.43.030, the section of the Uniform Arbitration Act (UAA) providing for appointment of arbitrators by agreement of the parties, or, in the absence of an agreement, by the superior court, the entire UAA is not

applicable to this section. *State v. Public Safety Employees Ass'n*, 798 P.2d 1281 (Alaska 1990).

**Applicability of legislative approval.** — The legislative appropriation requirement of AS 23.40.215(a) applies to arbitration awards under subsection (b). *Fairbanks Police Dep't Chapter v. City of Fairbanks*, Sup. Ct. Op. No. 4365 (File No. S-7060), P.2d (1996).

**Matter for courts.** — Arbitrability is a question for the courts unless the parties clearly and unmistakably provide otherwise. *State v. Public Safety Employees Ass'n*, 798 P.2d 1281 (Alaska 1990).

**Only nonstriking employees entitled to compulsory arbitration.** — This section unambiguously extends the right to compulsory arbitration only to those employees who are forbidden from striking, i.e., class (a)(1) employees. Class (a)(2) and (a)(3) employees are not entitled to binding arbitration simply because they happen to be in a bargaining unit with class (a)(1) employees. *Alaska Pub. Employees Ass'n v. City of Fairbanks*, 753 P.2d 725 (Alaska 1988).

**Issues arbitrable.** — The duty to maintain fit premises under a collective bargaining agreement providing for bush housing is one for which a contract remedy is available and is thus arbitrable. *Public Safety Employees Ass'n v. State*, 658 P.2d 769 (Alaska 1983).

**Issues not arbitrable.** — The legality of a clearly expressed and plainly applicable contract formula was held not arbitrable under the terms of a contract clause providing for arbitration in disputes involving the meaning or application of the express terms of the contract. *Public Safety Employees Ass'n v. State*, 658 P.2d 769 (Alaska 1983).

Because of the explicit nonwaiver provisions of AS 34.03.040, the right to sue under the Uniform Residential Landlord and Tenant Act, AS 34.03, cannot be prospectively bargained away in a collective bargaining agreement which provides for arbitration. *Public Safety Employees Ass'n v. State*, 658 P.2d 769 (Alaska 1983).

**Standard of review.** — Appellate courts should apply the arbitrary and capricious standard when reviewing awards in compulsory interest arbitrations; in voluntary interest arbitrations, the standard of review is gross error. *State v. Public Safety Employees Ass'n*, 798 P.2d 1281 (Alaska 1990).

**Sec. 23.40.205. Family leave.** Notwithstanding any provision of AS 23.40.070 — 23.40.260 to the contrary, an agreement between the employer subject to AS 23.10.500 — 23.10.550 and an employee bargaining organization that does not contain benefit provisions at least as beneficial to the employee as those provided by AS 23.10.500 — 23.10.550 shall be considered to contain the benefit provisions of those statutes. (§ 7 ch 96 SLA 1992)

**Revisor's notes.** — Enacted as AS 23.40.200(g). Renumbered in 1992.

**Sec. 23.40.210. Agreement; cost-of-living differential.** (a) Upon the completion of negotiations between an organization and a public employer, if a settlement is reached, the employer shall reduce it to writing in the form of an agreement. The agreement may include a term for which it will remain in effect, not to exceed three years. The agreement

shall include a pay plan designed to provide for a cost-of-living differential between the salaries paid employees residing in the state and employees residing outside the state. The plan shall provide that the salaries paid, as of August 26, 1977, to employees residing outside the state shall remain unchanged until the difference between those salaries and the salaries paid employees residing in the state reflects the difference between the cost of living in Alaska and living in Seattle, Washington. The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the labor relations agency.

(b) An employee is eligible for the cost-of-living differential under (a) of this section only if the individual is a state resident. The required presence of an employee at a work station where room and board are provided or reimbursed by the employer may not be considered to be physical presence in the state or physical absence from the state for purposes of determining eligibility for the cost-of-living differential.

(c) The commissioner of administration may adopt regulations under AS 44.62 (Administrative Procedure Act) to clarify and implement the criteria for establishing and maintaining eligibility for the cost-of-living differential.

(d) An agreement entered into under AS 23.40.070 — 23.40.260 must require compliance with the eligibility criteria for receiving the cost-of-living differential contained in this section and the regulations adopted by the commissioner under (c) of this section.

(e) In this section, "state resident" means an individual who is physically present in the state with the intent to remain permanently in the state under the requirements of AS 01.10.055 or, if the individual is not physically present in the state, intends to return to the state and remain permanently in the state under the requirements of AS 01.10.055, and is absent only temporarily for reasons allowed under AS 43.23.095(8) or a successor statute. (§ 2 ch 113 SLA 1972; am § 1 ch 62 SLA 1977; am § 7 ch 4 1996 FSSLA)

**Cross references.** — For legislative intent and purpose related to the enactment of subsections (b)-(e), see § 1, ch. 4, FSSLA 1996 in the Temporary and Special Acts.

**Effect of amendments.** — The 1996 amendment, effective July 1, 1996, added subsections (b)-(e).

**Editor's notes.** — Section 44, ch. 4 FSSLA 1996

provides that nothing in that Act, which added subsections (b)-(e), "modifies or terminates the terms of a collective bargaining agreement in effect on July 1, 1996." Under § 45, ch. 4, FSSLA 1996, the provisions of that act, which added subsections (b)-(e), are not severable, notwithstanding AS 01.10.030.

#### NOTES TO DECISIONS

**Constitutionality.** — This section's cost-of-living wage differentials do not violate the federal constitution's commerce clause since Alaska acted as a "market participant" rather than as a "market regulator." *International Org. of Masters v. Andrews*, 626 F. Supp. 1271 (D. Alaska 1986), aff'd, 831 F.2d 843 (9th Cir. 1987), cert. denied, 485 U.S. 962, 108 S. Ct. 1228, 99 L. Ed. 2d 428 (1988).

Because the existence and amount of the wage differentials imposed under this section reasonably further a legitimate state purpose, the wage differentials do not violate the equal protection clause of the fourteenth amendment. *International Org. of Masters v. Andrews*, 626 F. Supp. 1271 (D. Alaska 1986), aff'd, 831 F.2d 843 (9th Cir. 1987), cert. denied, 485 U.S. 962, 108 S. Ct. 1228, 99 L. Ed. 2d 428 (1988).

Imposing wage differentials according to Alaska Marine Highway System (AMHS) employee's states of residence did not infringe on their "right to travel" guaranteed by the fourteenth amendment since the wage adjustments do not penalize AMHS employees for migrating to or emigrating from Alaska. *International Org. of Masters v. Andrews*, 626 F. Supp. 1271 (D. Alaska 1986), aff'd, 831 F.2d 843 (9th Cir. 1987), cert. denied, 485 U.S. 962, 108 S. Ct. 1228, 99 L. Ed. 2d 428 (1988).

This section's wage differentials do not violate the privileges and immunities clause because the interest "burdened" by this section's wage differentials is not "fundamental" in nature, and even if this interest were fundamental for purposes of privileges and immunities analysis, Alaska has a substantial interest in eliminating disincentives that discourage Alaska Marine Highway System employees from residing in the state, and its wage differentials bear a "substantial relationship" to its objective of eliminating, or at least minimizing, these disincentives. *International Org. of Masters v. Andrews*, 626 F. Supp. 1271 (D. Alaska 1986), aff'd, 831 F.2d 843 (9th Cir. 1987), cert. denied, 485 U.S. 962, 108 S. Ct. 1228, 99 L. Ed. 2d 428 (1988).

This section, granting cost of living wage adjustments to resident, but not nonresident employees of the Alaska Marine Highway System, does not violate the Privileges and Immunities Clause or the right to travel as embodied in the fourteenth amendment. *International Org. of Masters v. Andrews*, 831 F.2d 843 (9th Cir. 1987), cert. denied, 485 U.S. 962, 108 S. Ct. 1228, 99 L. Ed. 2d 428 (1988).

**Agency assumption of jurisdiction over pending grievance procedures.** — The agency may

# Alaska State Legislature

REPRESENTATIVE BILL HUDSON

State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-3744  
Fax (907) 465-2273

## COMMITTEES

CO-CHAIR  
Resources Committee

MEMBER  
Transportation Committee  
Labor & Commerce Committee

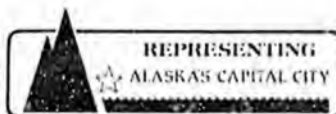


## SPONSOR STATEMENT HB 225

HB 225, "Approval of Public Employee Agreements", would add new language to the section of the law (AS 23.40.215) that addresses the monetary terms of a collective bargaining agreement. This new language states that once the legislature agrees to the terms of a collective bargaining agreement by funding the first year of a multi-year contract, they approve all the terms in the contract, pending yearly legislative appropriation. Once the legislature enters into a contract, negotiated in good faith, I believe it is the fair and right thing to honor the negotiated contract for its entirety. The time for the legislature to disagree with the terms of a negotiated multi-year contract would be before ever appropriating funds during the first year of such a contract.

HB 225 does not change the statutory requirement giving the legislature the authority to approve the appropriating of funds for state employee contracts each year. Appropriation would still be on a FY by FY basis, but employees of the state would sense a commitment to full funding if the legislature appropriated funding the first year of the contract.

I would appreciate your support in passage of this legislation.



# Alaska State Legislature

91-17-C-S-10-17 2010



REPRESENTATIVE BILL HUDSON

State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-3744  
Fax (907) 465-2273

## COMMITTEES

CO-CHAIR  
Resources Committee

MEMBER  
Transportation Committee  
Labor & Commerce Committee

## MEMORANDUM

**TO:** Rep. Norm Rokeberg, Chair  
House Labor and Commerce Committee

**FROM:** Representative Bill Hudson

**SUBJECT:** Hearing Request, HB 225

**DATE:** January 19, 1998

---

I respectfully request that you schedule a hearing of HB 225 "Approval of Public Employee Agreements", before the House Labor and Commerce Committee at your earliest convenience.

HB 225, if enacted, would add new language to the section of the law (AS 23.40.215) that addresses the monetary terms of a collective bargaining agreement. This new language states that once the legislature agrees to the terms of a collective bargaining agreement by funding the first year of a multi-year contract, they approve all the terms in the contract, pending yearly legislative appropriation. Once the legislature enters into a multi-year contract, negotiated in good faith, I believe it is the fair and right thing to honor the negotiated contract for its entirety. The time for the legislature to disagree with the terms of a negotiated multi-year contract would be before ever appropriating funds during the first year of such a contract.

Thank you for your consideration.



# Alaska State Legislature

REPRESENTATIVE BILL HUDSON

## COMMITTEES

CO-CHAIR  
Resources Committee

MEMBER  
Transportation Committee  
Labor & Commerce Committee



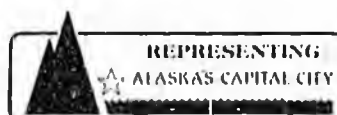
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-3744  
Fax (907) 465-2273

## SPONSOR STATEMENT *HB 225*

HB 225, "Approval of Public Employee Agreements", would add new language to the section of the law (AS 23.40.215) that addresses the monetary terms of a collective bargaining agreement. This new language states that once the legislature agrees to the terms of a collective bargaining agreement by funding the first year of a multi-year contract, they approve all the terms in the contract, pending yearly legislative appropriation. Once the legislature enters into a contract, negotiated in good faith, I believe it is the fair and right thing to honor the negotiated contract for its entirety. The time for the legislature to disagree with the terms of a negotiated multi-year contract would be before ever appropriating funds during the first year of such a contract.

HB 225 does not change the statutory requirement giving the legislature the authority to approve the appropriating of funds for state employee contracts each year. Appropriation would still be on a FY by FY basis, but employees of the state would sense a commitment to full funding if the legislature appropriated funding the first year of the contract.

I would appreciate your support in passage of this legislation.



**AGENDA**  
**February 11, 1998**

**Good Afternoon**

**This Meeting Of The House Labor & Commerce Committee Is Called To Order  
On February 11, 1998 At 3:15 P.M.**

**For The Record The Committee Members Present or on Teleconference are:**

**Rep. Norman Rokeberg, Chairman**

**Rep. John Cowdery, Vice Chairman**

**Rep. Bill Hudson**

**Rep. Joe Ryan**

**Rep. Jerry Sanders**

**(Time).**

**Rep. Tom Brice**

**Rep. Gene Kubina**

**Committee Secretary, Paula Smedley**

**If A Committee Member Arrives Late Announce:**

**Representative (Name) Has (Joined) (Left) The Committee At**

**A Quorum ( Is ) ( Is Not ) Present.**

**On Today's Calendar We Have:**

**SB 110 Licensing of Landscape Architects**

**\*HB 225 Approval of Public Employees Agreements 1<sup>st</sup> Hearing**

**\*HB 323 PERS Credit For Noncertificated Employees 1<sup>st</sup> Hearing**

Anyone Wishing To Testify On SB 110, HB 225 or HB 323 and Who Has Not Already Done So, Please Sign The Witness Register For The Secretary, Printing Your Name, Address, Telephone Number, Agency Or Business And Title.

**Witness Testimony Will be Limited To 3 to 5 minutes**

**1. SB 110 Licensing of Landscape Architects**

**Sponsor: Sen Jerry Mackie**

**We have a House Labor and Commerce Committee substitute today for SB 110.**

**The CS contains the amendments we talked about at our meeting last week and again on Monday.**

**Unless anyone has anything further to add I will close the public hearing on SB 110.**

**The Chair will entertain a motion to adopt Version O-LS0634\Q, dated 2/11/98 for SB 110.**

**Are there any objections? Hearing no objections Version Q is adopted.  
Is there further debate by members of the committee? (YES NO)**

**The Chair will entertain a motion to adopt House Labor and Commerce Committee Substitute for SB 110 with individual recommendation and the attached fiscal note.**

**2. HB 225 Approval of Public Employees Agreements 1<sup>st</sup> Hearing**  
**Sponsor: Rep Bill Hudson**  
**Teleconference**

**3. HB 323 PERS Credit For Noncertificated Employees 1<sup>st</sup> Hearing**  
**Sponsor: Rep Tom Brice**  
**Teleconference**

Take Testimony In Order, Recognizing Each Witness By Name:

1. Other Legislators (Ask Other Legislators To Join The Committee At The Table)
2. Individuals With Time Constraints
3. Individuals In Order On Witness List.
4. Teleconferenced Testimony Should Be Rotated Between Locations.  
(Teleconference Moderator Will Provide You With A List Of Witnesses  
At The Various Locations)

**THIS COMMITTEE STANDS AJOURNED AT (time)**