ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

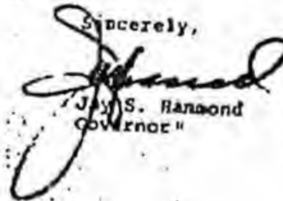
9739 SENATE STATE AFFAIRS

HB 662 The social security program is funded to the extent of 50 per cent by the employer. The employer should therefore be entitled to offset the workmen's compensation benefits under AS 23.30 to the extent of 50 per cent of the social security benefits. Section 8 of this bill provides for an offset for social security payments received by an injured worker under the federal statute. That is, where payments are made under the federal statute because of an injury, the weekly benefits payable under the Alaska Workmen's Compensation Act shall be reduced.

Finally, section 1 of the bill amends AS 21.39 by providing that carriers writing a line of workmen's compensation insurance may be required by the director of the division of insurance within the Department of Commerce and Economic Development, when in the public interest, to participate in an assigned risk pool. This provision should stabilize the insurance business in the workmen's compensation insurance market.

Members of my administration are continuing to analyze the problems and statutes in this area and to gather information which should be helpful in resolving those problems. I anticipate that we will be working with you in further refining the amendments proposed in this bill.

Sincerely,



Jay S. Hammond
Governor"

HB 663 HOUSE BILL NO. 663 by the Rules Committee by request of the Governor, entitled:

"An Act relating to Alaska National Guard and Alaska Naval Militia educational assistance."

was introduced, read the first time and referred to the Committees on State Affairs and Finance.

"January 27, 1976

The Honorable Mike Bradner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

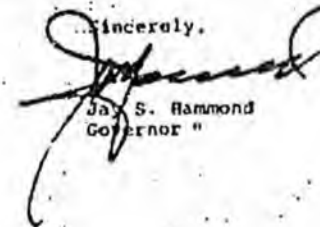
Dear Mr. Speaker:

In accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill relating to Alaska National Guard and Alaska Naval Militia educational assistance. The bill authorizes the adjutant general to pay not more than 50 per cent of the cost of tuition and required fees at educational, vocational, and technical training schools in Alaska, so long as the member participates satisfactorily in unit training activities and remains in good standing at the institution. HB 663

The amendments in this bill delete references to completion of mandatory military service, thus allowing women who were unable to qualify under that approach, to participate in these benefits. The amendments will also allow participation by members during their initial enlistment; thus it serves as an incentive to recruitment.

Payments will be limited to those who have not qualified under Veterans' Administration programs or educational programs established for active or reserve forces other than the Alaska National Guard and the Alaska Naval Militia.

Sincerely,



Jay S. Hammond
Governor"

CONSIDERATION OF THE DAILY CALENDAR

SECOND READING OF HOUSE BILLS

HOUSE BILL NO. 121 (retirement credit for military service; effective date) was read the second time with the Health, Education and Social Services Committee report (page 21? of the 1975 journal), the Community and Regional Affairs Committee report (page 365 of the 1975 journal) and the Finance Committee report (page 112 of the journal). HB 121

Mr. Miller moved and asked unanimous consent that COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 121 (same title) be adopted in lieu of HOUSE BILL NO. 121. There being no objection, it was adopted. CSHB 121

Mr. Miller moved and asked unanimous consent that COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 121 be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered and the bill was read the third time.

The question being: "Shall COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 121 pass the House?" The roll was taken with the following result:

9074654844 P.02

Original sponsor: Rules Committee by request of the Governor

Offered: 4/29/76
Referred: Finance

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 663

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska National Guard and
7 Alaska Naval Militia; and providing for an effective
8 date."

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

10 * Section 1. AS 26.05.295 is amended to read:

11 Sec. 26.05.295. EDUCATIONAL ASSISTANCE <u>FOR ENLISTED PERSONNEL</u>.
12 (a) Each active <u>enlisted</u> member of the Alaska National Guard or the
13 Alaska Naval Militia who has completed the initial voluntary enlistment
14 period of service which fulfills the mandatory requirement for military
15 service under the Military Selective Service Act of 1967 (PL 90-40; 81
16 Stat. 100; 50 U.S.C. App., secs. 451 - 456 and 458 - 471) is eligible
17 for educational assistance benefits in Alaska educational facilities.
18 <u>Notwithstanding the reference to mandatory military service requirements,</u>
19 <u>each active enlisted female member is fully eligible for educational</u>
20 <u>assistance benefits under this section after completing six years of</u>
21 <u>enlisted service.</u>

22 (b) Educational programs and monetary benefits available to persons
23 under (a) of this section are based on and equivalent to those of the
24 federal veterans administration education program.

25 (c) For the purposes of computing eligible benefits under <u>this</u>
26 <u>section</u> [THE ALASKA EDUCATIONAL ASSISTANCE PROGRAM], each retirement
27 point earned as a member of the Alaska National Guard or the Alaska
28 Naval Militia is equivalent to one day's active military service. Com-
29 putation of credit for retirement points is based on the retirement

SB

150

// 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 19, 1997

SUBJECT: Sectional Summary of Work Order 0-LS0688, dated 3/4/97. (Moving expenses, compensatory time, and PERS compensation)

TO: Senator Drue Pearce
Attn: Llewellyn Lutchansky

FROM: Teresa B. Cramer
Legislative Counsel

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

Section 1 amends the subjects that are not subject to bargaining under the Public Employment Relations Act (PERA) to exclude bargaining on moving expense payment for state employees and on eligibility for compensatory time, both of which are addressed by new sections enacted in bill section 2.

Sec. 2 adds provisions concerning moving expenses and compensatory time eligibility.

Sec. 39.20.340 prohibits the state from paying moving expenses for state employees in the classified service if the employee voluntarily transfers from one location to another unless the employee intends to stay for at least five years and promises to reimburse the state if the employee does not stay that long. There is an exception to the reimbursement requirement if the employee moves because of a certified medical necessity in the employee's family or if the state involuntarily transfers the employee.

Sec. 39.20.460 prohibits a state employee who is eligible to be paid overtime from receiving compensatory time for overtime hours unless receipt of compensatory time is consistent with a written agreement approved by the employee's appointing authority. For employees covered by a collective bargaining agreement, the compensatory time must also be consistent with the terms of the collective bargaining agreement.

Sec. 3 amends the definition of "compensation" for the Public Employees' Retirement System to exclude overtime pay.

TC:glc
97-198.glc

The Public Employee's Bill of Rights

- Will require that public employee unions register with the Department of Labor and file their constitution and bylaws, list their officers and qualifications for office, publish their dues and service fee structures, qualifications for voting in election of union officers and other vital information.

- Will require that all members of the bargaining unit, not just members, can vote on contract ratifications and amendments to contracts.

- Will establish rules for open, secret ballot elections for union office and other union business.

- Will require all union officers and employees to disclose their financial dealings with public employers, elected and appointed officials and candidates for office.

- Will require unions disclose their financial dealings in sufficient detail to determine expenditures for social, political and fraternal activities.

- Will require public employers, elected and appointed officials and other employer agents to disclose their financial dealings with unions.

- Will prohibit payments, business dealings or contributions by unions to public officials if the intent is to influence the outcome of a negotiation, grievance or arbitration.

- Will prohibit payments, business dealings or contributions by public employers to unions if the intent is to influence union activities or to interfere with an employee's rights guaranteed by PERA.

- Will prohibit compulsory employee payments to unions for social, political and fraternal activities while still allowing agreements to pay for the actual cost of representation in negotiations and grievance adjustment.

- Will establish rules governing national or international unions' taking over local unions through trusteeship.

- Will establish rules for fiduciary responsibility of union officers and employees.

Public Employment Relations Act Modernization

- The 1972 Legislature found that joint decision making is the modern way for an employer to deal with its employees. This is even more true today than then. However, the bargaining law is now 25 years old and is based on a sixty-year-old federal law.
- The amendments incorporate the experience of the Executive Branch and the Legislature over the last 25 years as well as the federal experience over 60 years.
- Protects employees from compulsory participation in union social, fraternal and political activities while allowing agreements that require payment of reasonable service fees for the union's representation services in negotiations and grievance adjustment.
- Requires that employees with law enforcement authority be in separate unions to avoid conflicts of interest.
- Prohibits supervisors and high-level managers from participation in bargaining units with subordinate employees.
- Enhances employee participation in management decisions by allowing focus groups, quality circles and other joint employee-employer committees.
- Protects private employers from becoming embroiled in disputes between public employers and public employee unions.
- Protects employees from being compelled to pay fees not reasonably related to the cost of representation.
- Streamlines and clarifies the rules for selecting an arbitrator to settle contract disputes with employees who are prohibited from striking.
- Ensures that Pioneer Home employees can be enjoined back to work should a strike threaten the welfare of residents.
- Requires that all collective bargaining agreements be written and must have a fixed expiration date.
- Requires that the Alaska Labor Relations Agency make regulations governing collection of pay differentials based on residency.
- Ensures legislative oversight over all costs of collective bargaining.
- Ensures the oversight authority of the legislative bodies of political subdivisions over the costs of collective bargaining.
- Requires that public employees working under an agreement that requires the payment of dues or fees are given notice of their right to pay only for the costs of collective bargaining.

SB
151

TELECOPY COVER SHEET

Fairbanks Legislative Information Office

Office - (907) 452-4448 Fax - (907) 456-3346

TO: Senate State Affairs FAX: PHONE:

FROM: Fbx LIO PHONE:

INSTRUCTIONS: Written Testimony for SB150 & SB151 teleconferenced 4/1/97

RECEIVED: Date Time

SENT: Date 4/2/97 Time

DISPOSAL OF ORIGINAL: Discard Hold for Pickup

NUMBER OF PAGES: 3 (Not counting cover sheet)

SENT BY: Fran

Hon. Senators (etc...)

Senate Bills 150 and 151 contain within themselves, and within the facts describing their genesis, the most compelling reasons to vote against them.

It must have been fun for Mr. Chance to earn so much for a few weeks work -- all the while taking pot-shots at the people that made his many years of highly paid State service so unrewarding. It is hard to imagine how the sponsors could justify the expenditure under the banner of workers rights, while refusing to honor contractual cost of living adjustments that were bargained in good faith - at the cost of holidays and other benefits surrendered. If this is the kind of thing that happens with PERA in place as is, who can guess what would occur without? Will we see political patronage return? Will the people of the State see better service as promised on election day?

Leave this 25 year old statute to serve us well another 25 years. Please vote No on these poorly concieved and even more poorly written pieces of legislation.

Sincerely,

Patrick Shier, ASEA Northern Region Rep.

Sent: Monday, March 31, 1997 2:50 PM
To: Kathy Dietrich
Subject: Re: Update

Please vote no on bills 150 & 151.

Bill 151 addresses not allowing Pioneer Home worker's not to strike. This is redundant and unnecessary, as the contract that these workers are under will not allow them to strike, as they are Class 1 employees. It also will allow union members, to receive back part of their dues. This would be the part used for political activities. This is already addressed by the Union. Please do not waste, your important time (which is money) on unnecessary items.

Bill 150 is unfair to shift workers. Numerous employees work a Monday to Friday 8 to 5 type schedule. If you check on who is shift workers, you will find the majority, if not all, are employed in a 24 hour facility. As such, all shifts must be covered, for public safety reasons. Be it a correctional officer in the prisons, a pioneer aid taking care of our disabled and/or senior citizens or a radio dispatcher, taking and dispatching emergency calls, to possibly include giving pre-arrival instructions for emergency medical care to help save a life, before the ambulance or rescue squad arrives. The extra pay does not necessarily compensate being away from your family, having to cancel or rearrange your plans. With ALL pay used to compute retirement income, the hardship of having to cancel plans with my family is offset somewhat.

I enjoy my job. I am a shift worker in a 24 hour facility and as such, cannot always turn down overtime, even when I have prior plans.

Ref budget cuts. Please be very careful when addressing this issue. The legislature cuts budgets of different departments. The departments then cuts different items such as manpower, supplies and similar items. REMEMBER: Man power cuts will make government smaller: however at the same stroke of your pens, you give these same departments more to do--by law and regulation.

I am aware that motor vehicles, must ask people if they wish to register to vote, if so they sign them up, they have commercial driver licenses now--for several years. I have not seen an increase in their staff.

The State Troopers have Sex Offender registrations, concealed carry permits to handle. These take time and I have not seen an increase in staff.

There probably have been additions in the main offices. to process completed, received forms. However, in the field offices, Fairbanks, Delta, Tok etc, I don't believe any additional staffing has occured. So once again, same amount, if not less of manpower and more work. In addition, our state is growing. So the same amount of employees at DMV are processing more original transactions-for driver's licensing, vehicle registrations etc.

I am sure that other divisions have similar stories. PLEASE, PLEASE think about these things when you cut budgets. I do not have statistics on the different aspects I have mentioned, however, common sense will show that with an increase in population of the state, and duties of state employed persons, we are doing more with less-already.

The cuts often times roll down hill to the worker bee.

Sincerely:

Nancy Shafer, ASEA member, voting public, concerned citizen, Fairbanks

// LEGAL SERVICES
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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

<u>MEMORANDUM</u> March 11, 1997

SUBJECT: Sectional Summary of Work Order 0-LS0675\E dated 3/4/97. (Public employment labor relations)

TO: Senator Drue Pearce, Co-Chair
Senate Finance Committee
Attn: Llewellyn Lutchansky

FROM: Teresa B. Cramer TBC
Legislative Counsel

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

<u>Section 1</u> adds AS 23.40.011, containing a statement of findings, purposes, and policy for the Public Employment Relations Act (PERA).

<u>Section 2</u> amends AS 23.40.075 to include the terms of a statute or municipal ordinance in the list of items that are not subject to bargaining under PERA. There is an exception if the subject matter of the statute or ordinance is made subject to bargaining under PERA.

<u>Section 3</u> adds a new subsection to AS 23.40.075 concerning the public employer's managerial rights, prerogatives, and functions.

<u>Section 4</u> amends AS 23.40.090 to substitute reference to "this chapter" for reference to AS 23.40.070 - 23.40.2[illegible] the statues that currently make up PERA, to reflect the additions and repeals made by t[illegible]ill.

<u>Section 5</u> adds a new subsection to AS 23.40.090 making the representative chosen by the majority of the members in a bargaining unit the exclusive representative of employees in the unit. Subsection (c) places limits on the make-up of bargaining units. Subsection (d) prohibits a labor organization that represents peace officers from representing other kinds of public employees. Subsection (e) defines "confidential employee," "peace officer," and "supervisory employee" for purposes of AS 23.40.090.

Section 6 amends AS 23.40.100 to add to the reasons that an employer may require the labor relations agency to investigate a petition from the employer concerning the makeup of a bargaining unit or the representative of employees in the unit.

Section 7 amends AS 23.40.100(d) to provide that when a labor organization has been recognized by mutual consent, a member of the bargaining unit may petition the labor relations agency to hold an election to determine if the unit is appropriate or if the labor organization is in fact the representative of the majority of employees in the unit.

Section 8 adds a new subsection to AS 23.40.100 to prohibit the labor relations agency from investigating a petition filed by a labor organization if the organization has not filed all of the reports required by AS 23.40.400, which is set out in bill section 37 on page 24 of the bill.

Section 9 amends AS 23.40.110. The amendment to paragraph (a)(2) prohibits employers from contributing financial or other support to labor organizations but permits the employer to confer with employees concerning matters of mutual concern during working hours. The amendment to subsection (b) removes authorization for collective bargaining agreements to contain a clause requiring, as a condition of employment, membership in the labor organization. The amendment also adds a limitation on the amount of a service fee that may be imposed. Paragraph(c)(2) substitutes reference to "this chapter" for reference to AS 23.40.070 - 23.40.260.

Paragraph(c)(3) prohibits labor organizations from engaging in a strike or refusal to handle goods or perform services, or from encouraging individuals to do so, for any of the four reasons listed in subparagraphs (A) through (D). Under subparagraph (A), the conduct is forbidden if the goal is to force an employer to join a labor organization or an employer organization or to enter into an agreement prohibited by Sec. 23.40.110(e), which is added by sec. 10 of the bill. Under subparagraph (B), the conduct is forbidden if the object is to force someone to stop dealing in a product of a third party. Under subparagraph (C), a labor organization cannot use a strike to force an employer to bargaining with a particular labor organization if another labor organization has already been recognized as the exclusive representative of those employees. Under subparagraph (D), the labor organization cannot strike to force an employer to assign work to employees in a particular organization, or a particular trade, craft, or class.

Under paragraph (c)(4), a labor organization may not require employees to pay an excessive or unreasonable service fee in lieu of membership dues. Under paragraph (c)(5), a labor organization may not cause a public employer to pay for work that is not actually performed for the public employer. Under paragraph (c)(6), a labor organization may not picket an employer unless the organization represents the employer's employees, to force the employer to recognize a labor organization or to force the employees to accept the labor organization as their representative.

Section 10 adds several subsections to AS 23.40.110. Subsection (d) states that the expression of opinions is not evidence of an unfair labor practice so long as the expression is not a threat or a bribe. Subsection (e) makes it an unfair labor practice for a labor organization and a public employer to agree that the public employer will cease doing business with another employer. That part of an agreement that purports to require a public employer to do so is unenforceable and void. Subsection (f) states that a statement or action of a member of the legislature or a municipal assembly or a judge may not be considered an unfair labor practice so long as it is within the person's normal duties and unless the individual is designated to act as the agent of the employer in collective bargaining or in the adjustment of a grievance.

Section 11 amends AS 23.40.120 to substitute reference to "this chapter" for reference to AS 23.40.070 - 23.40.260.

Section 12 amends AS 23.40.130 to substitute reference to "this chapter" for reference to AS 23.40.070 - 23.40.260 and to add a citation to the administrative adjudication portion of the Administrative Procedure Act.

Section 13 amends AS 23.40.140 to substitute reference to "this chapter" for reference to AS 23.40.070 - 23.40.260.

Section 14 amends AS 23.40.150 to permit the labor relations agency to apply to any superior court in the state for an order enjoining an act prohibited by order of the agency.

Section 15 amends AS 23.40.160(a) to substitute reference to "this chapter" for reference to AS 23.40.070 - 23.40.260.

Section 16 amends AS 23.40.160(d) to substitute reference to "this chapter" for reference to AS 23.40.070 - 23.40.260.

Sections 17 and 18 amend AS 23.40.170 to substitute reference to "this chapter" for reference to AS 23.40.070 - 23.40.260 and to add a new subsection making the Administrative Procedure Act apply to adjudicative proceedings held under PERA.

Section 19 amends AS 23.40.200(b) to narrow the description of employees who are placed in Class One and prohibited from striking. Only those police, jail, prison, and other correctional institution employees who hold positions requiring certification from the Alaska Police Standards Council may be included in the class. Fire fighters continue to be included. The hospital employees who are included are limited to those who are licensed health care providers. Licensed health care providers at correctional facilities are added. The amendment also permits the labor relations agency to apply to any superior court in the state for an order if employees are about to engage in a prohibited strike. The selection of an arbitrator is governed by bill sec. 22.

Section 20 amends AS 23.40.200(c) to add residential care facility employees and employees of hospitals other than licensed health care providers to Class Two. Class Two employees are permitted to strike after mediation, but only for a limited time. Education employees (those of the University of Alaska) are removed from this class. (Public school employees are already included in Class Three.) The selection of an arbitrator is governed by bill sec. 22.

Section 21 amends AS 23.40.200(d) to specifically include employees of the Alaska Marine Highway System in Class Three and to clarify that public employees may engage in a strike only after impasse or deadlock is reached in collective bargaining.

Section 22 adds new subsections to AS 23.40.200. Subsection (g), which is referred to in bill sections 19 and 20, sets out how an arbitrator is to be selected. Subsection (h) provides that arbitration under this statute is open to the public and the decision and award are public records.

Section 23 amends AS 23.40.205 to substitute reference to "this chapter" for reference to AS 23.40.070 - 23.40.260.

Section 24 amends AS 23.40.210(a) to prohibit collective bargaining agreements from containing terms for automatic renewal and to prohibit labor organizations that have not filed reports required under AS 23.40.400, enacted by bill sec. 37, from gaining the assistance of the labor relations agency in enforcing the collective bargaining contract.

Sections 25 and 26 amend AS 23.40.210(c) and (d) to give the labor relations agency authority to adopt regulations concerning the cost-of-living differential for out-of-state employees in place of the commissioner of administration and to substitute reference to "this chapter" for reference to AS 23.40.070 - 23.40.260.

Section 27 adds new subsections to AS 23.40.210. Subsection (f) addresses selection of an arbitrator to conduct arbitrations under a collective bargaining contract. Subsection (g) makes the decision and award in an arbitration a final administrative adjudication under the Administrative Procedure Act, subject to appeal as an administrative agency decision.

Section 28 amends AS 23.40.212(a) to substitute reference to "this chapter" for reference to AS 23.40.070 - 23.40.260.

Sections 29 and 30 amend AS 23.40.215(a) and (b) to substitute reference to "this chapter" for reference to AS 23.40.070 - 23.40.260 and to require that extensions or modifications of a collective bargaining contract and arbitrators awards are subject to funding by the legislature (or other appropriate legislative body, in the case of a political subdivision) and are not effective or enforceable until funding and approval has occurred. Under the amendments to AS 23.40.215(b), if the legislature (or other legislative body) declines to fund

an agreement, the parties are required to resume negotiations. Subsection (b) also clarifies that the University and public corporations of the state are included in the subsection.

Section 31 adds new subsections to AS 23.40.215. Subsection (d) sets out requirements to permit legislative review of an agreement, resolution, settlement, or arbitrator's award that will cost the state $10,000 or require the state to forego repayment of money owed to the state and prohibits an agreement, resolution, settlement, or arbitrator's award that "substantially modifies" monetary terms from taking effect until after legislative approval and funding. "Substantially modifies" is not defined.

Section 32 amends AS 23.40.220 to provide that an authorization for the employer to deduct union dues from an employee's compensation may not be made irrevocable for longer than one year.

Section 33 adds new subsections to AS 23.40.220. Subsection (b) requires an employer, at the request of an employee, to deduct the monthly amount of the service fee or other employee benefits from the employee's compensation. The secretary of the labor organization must certify the monthly amount of the fee. The authorization for the deduction may not last longer than the termination date of the collective bargaining agreement and may not be made irrevocable for longer than one year.

Section 34 amends AS 23.40.250, the definition section of PERA, and adds new definitions, many of which are made necessary by the new provisions contained in bill section 37. The definition of "monetary terms" is changed to include any change that requires the expenditure of public money whether or not a new appropriation is necessary.

The definition of "public employee" is amended to specifically include individuals who are on strike or who are locked out because of a labor dispute, an unfair labor practice, or who have been expelled from a union, and to exclude temporary employees, part-time employees, legislative branch employees, employees involved in policy making in the area of collective bargaining, and confidential employees who assist members of a legislative body of a political subdivision or a judge.

The definition of "public employer" is amended to include an employee who primarily formulates, effectuates, or determines the public employer's labor relations policies.

Section 35 adds a new subsection to AS 23.40.250 to address when a labor organization is subject to PERA. If the organization is connected with public employees in any of the five ways listed in the subsection, it is subject to PERA.

Section 36 amends AS 23.40.260 to substitute reference to "this chapter" for reference to AS 23.40.070 - 23.40.260.

Section 37 adds several new articles to PERA.

Article 3. Rights of Members of Labor Organizations.

Sec. 23.40.300 sets out the rights of members of labor organizations and bargaining units with respect to elections and attendance and participation in meetings. Subsection (d) makes clear that a labor organization can adopt and enforce reasonable rules of conduct.

Sec. 23.40.310 limits the rates of dues and initiation fees charged members of labor organizations and local labor organizations. Subsection (c) sets out procedures for increasing dues or fees or imposing assessments.

Sec. 23.40.320 prohibits labor organizations from limiting the rights of members to bring a court suit or an administrative agency proceeding or from appearing as a witness, petitioning the legislature, or communicating with a legislator. Under subsection (b), a labor organization may require a member to exhaust administrative procedures, so long as the procedures do not last longer than two months. Subsection (c) prohibits employers from financing, encouraging, appearing in, or participating in (except as a party) a court suit or administrative proceeding under subsection (a).

Sec. 23.40.330 requires a labor organization, before imposing discipline on a member, to serve the member with written charges, offer reasonable time for a defense to be prepared, and afford the member a fair hearing.

Sec. 23.40.340 requires labor organizations to make copies of the collective bargaining agreement available to employees covered by the agreement. Subsection (b) makes the agreement a public record.

Sec. 23.40.350 requires labor organizations to inform members of the provisions of PERA. Note that there is a drafting error in the caption to the section, which should refer to the "Public Employment Relations Act" not the "Public Employees Relations Act."

Article 4. Reporting by Labor Organizations and Employers.

Sec. 23.40.400 requires labor organizations to report information about the structure, organization, and financial situation of the organization as listed in subsection (a) to the commissioner of labor. Under subsection (c), the labor organization must file an annual financial report. Under subsection (d), the information contained in the report must be available to all members and fee payers without cost.

Sec. 23.40.410 requires officers and employees of labor organizations to file financial statements concerning their own and their families' finances with the commissioner of labor. Subsection (a) exempts clerical and custodial employees from the requirement to file the

reports. Subsection (b) exempts employees from having to report transactions in securities traded on a national securities exchange. Subsection (c) exempts an employee who has not held an interest, received income or other benefit, or engaged in a transaction described in subsection (a) from the requirement of filing a report.

Sec. 23.40.420 requires officers and elected or appointed officials of a public employer to file a financial report if the individual made a payment, loan, expenditure, promise, agreement, or other transaction listed in the section. Generally, the transactions involve dealings with a labor organization or an officer, agent, shop steward, or other representative of a labor organization, or an employee of a labor organization; payments to a public employee made to cause the employees to persuade other employees to exercise rights under PERA; expenditures made to affect the exercise of rights under PERA; and agreements with an independent contractor to affect the rights of public employees under PERA or to supply information to the public employer when there is a labor dispute (but information directly related to a proceeding is permitted).

Sec. 23.40.430 exempts attorney-client communications from information that must be disclosed under AS 23.40.400 - 23.40.470. Subsection (b) makes deliberative communications confidential and privileged, and exempt from any public records disclosure.

Sec. 23.40.440 makes the reports filed under this article public records and sets deadlines for filing reports.

Sec. 23.40.450 makes an intentional violation of this article or a knowing false statement of material fact in a document required by this article a class A misdemeanor.

Sec. 23.40.460 permits the commissioner of labor to bring a civil action against a person who has violated the reporting requirements in this article.

Sec. 23.40.470 requires auditing and accounting firms and individual auditors who help prepare the reports required by this article to file an annual report that includes information on the company's credentials, the payments received for the reports, the expenses of preparing them, and other information required by the commissioner of labor.

Article 5. Trusteeships.

Sec. 23.40.500 requires a labor organization that has acquired a trusteeship over another labor organization to file a report within 30 days of assuming the trusteeship and semiannually thereafter. The report must contain information concerning the trusteeship. Under subsection (b), financial information must be included in the initial report. Subsections (c) and (d) are criminal provisions.

Sec. 23.40.510 limits the purpose of a trusteeship to correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements or other duties of a bargaining representative, restoring democratic procedures, and other legitimate objects of a labor organization.

Sec. 23.40.520 provides that the votes of delegates from a subordinate labor organization that is in trusteeship may not be counted unless the delegates were chosen by secret ballot and prohibits transferring to the organization money of the subordinate body except the normal payments made by subordinate bodies not in trusteeship. Subsection (c) sets out criminal penalties. Subsection (d) permits members to file complaints.

Sec. 23.40.530 addresses the duration of a trusteeship. After 18 months, the need for the trusteeship is presumed to have expired.

Sec. 23.40.540 permits the commissioner of labor to file a complaint concerning a trusteeship. In that event, the jurisdiction of the superior court in which the complaint is filed is exclusive.

Article 6. Labor Organization Elections and Removal of Officers.

Sec. 23.40.600 requires labor organizations representing or seeking to represent public employees to elect officers at least every five years, either by secret ballot or at a convention by delegates chosen by secret ballot. Local labor organizations must elect officers at least every three years. Under subsection (c), candidates must be given an opportunity to distribute campaign literature to members of the labor organization and the labor organization may not support one candidate over another with respect to use of membership lists.

Sec. 23.40.610 requires that officers of general committees of labor organizations or similar bodies be elected at least every four years by secret ballot or by representatives chosen by secret ballot.

Sec. 23.40.620 sets out procedures for elections by secret ballot.

Sec. 23.40.630 requires that when officers are chosen by a convention, the convention shall be conducted in accordance with the constitution and bylaws of the labor organization to the extent that those documents do not conflict with this article.

Sec. 23.40.640 prohibits labor organizations from using dues or assessments or money received from a public employer to promote the candidacy of a person in an election covered by this article. There is an exception for factual information concerning issues not involving candidates and for the expense of holding the election.

Sec. 23.40.650 permits the labor relations agency to authorize the removal of an elected officer of a labor organization who is guilty of serious misconduct if the constitution and bylaws of the labor organization do not provide an adequate procedure for the removal of the officer. If the labor relations agency makes the required findings, then the members of the labor organization can remove the officer by secret ballot.

Sec. 23.40.660 permits a member of a labor organization to file a complaint with the labor relations agency concerning a violation of the provisions of this article. The member must first exhaust remedies available under the labor organization constitution and bylaws, but there must be a final decision under the constitution and bylaws within three months after the member invokes them. The election that is being challenged is presumed to be valid, and the officers continue to act for the labor organization (unless the constitution or bylaws of the organization provide otherwise). The labor relations agency is required to bring a civil action in superior court to set aside the election if it finds there is probable cause. The court can declare the election void and direct that a new election be held if it finds a violation.

Sec. 23.40.670 prohibits requiring a labor organization to have more frequent elections than required by its own constitution and bylaws and this article and states that the article does not affect rights and remedies concerning elections under those documents. However, the remedy provided in the article for challenging an election that has already been held is made exclusive.

Article 7. Safeguards for Labor Organizations.

Sec. 23.40.700 states that officers, agents, shop stewards, and other representatives of a labor organization occupy positions of trust and owe a duty to act accordingly, as set out in the section.

Sec. 23.40.710 allows a member of a labor organization who believes that a representative of the organization has violated his or her fiduciary duty to sue the representative in superior court to recover damages for the benefit of the labor organization.

Sec. 23.40.720 provides that an officer or employee who embezzles from a labor organization is guilty of a class A misdemeanor.

Sec. 23.40.730 requires that representatives and employees of a labor organization or of a trust in which a labor organization is interested who handle money or property of the organization or trust must be bonded.

Sec. 23.40.740 prohibits a labor organization from making a loan to an officer or employee of the organization if the debt of the officer or employee to the organization exceeds $2,000. Subsection (b) prohibits a labor organization from paying a fine imposed on an officer or employee for intentional violation of this article.

Sec. 23.40.750 prohibits persons convicted of a felony or a misdemeanor involving abuse of employment for a public employer or in a labor organization from holding certain positions in a labor organization or with a public employer, including serving as an officer in, being employed by, or serving as a consultant or advisor to a labor organization or from serving as a labor relations consultant or advisor to a public employer. The prohibition lasts for 13 years after conviction or the end of imprisonment, whichever is longer, unless the period is shortened by the court as provided in subsections (b) and (c).

Sec. 23.40.790 defines "representative of a labor organization" for the article.

Article 8. Restrictions on Financial Transactions.

Sec. 23.40.800 prohibits a public employer, an elected or appointed official or a labor relations advisor to a public employer to pay, lend, or deliver anything of value, including money, to certain entities listed in subsection (a), including representatives of employees, certain labor organizations, public employees if the purpose is to influence rights under PERA, or to officers or employees of a labor organization if the purpose is to influence actions taken as a representative of employees. There is an exception for normal compensation of employees. Under subsection (c), a labor organization or representative or employee of the organization is prohibited from (1) demanding or accepting anything of value from a public official as a fee for refraining from pursuing a labor claim; and (2) offering or delivering public officials anything of value as a campaign contribution if the purpose is to affect labor relations proceedings or disputes between the public employer and the labor organization.

Subsection (d) lists exceptions to the prohibitions. Note that the payment of permanent fund dividends and the granting of other benefits that are generally available to people in the state under a variety of public programs (local property tax exemptions for home improvements, for example) are not included in the list of exceptions.

Subsection (e) sets out the requirements for qualifying as a trust to which money may be paid without violating the section.

Article 9. Miscellaneous Provisions.

Sec. 23.40.840 states that the chapter does not reduce or limit the responsibility of a labor organization or representative of the organization under state law or take away a right or Sec. 23.40.850f a member of a labor organization unless the chapter explicitly does so.

Sec. 23.40.850 states that service of process on an officer or agent of a labor organization constitutes service on the labor organization.

Section 53 provides that if a labor organization has assumed a trusteeship over a subordinate before the bill takes effect, the first trusteeship report is due within 30 days after the bill takes effect.

Section 54 provides that the first report required from a labor organization under AS 23.40.400 must be filed within 30 days after the bill takes effect.

TC:jdr
97-162.jdr

The Public Employee's Bill of Rights

- Will require that public employee unions register with the Department of Labor and file their constitution and bylaws, list their officers and qualifications for office, publish their dues and service fee structures, qualifications for voting in election of union officers and other vital information.

- Will require that all members of the bargaining unit, not just members, can vote on contract ratifications and amendments to contracts.

- Will establish rules for open, secret ballot elections for union office and other union business.

- Will require all union officers and employees to disclose their financial dealings with public employers, elected and appointed officials and candidates for office.

- Will require unions disclose their financial dealings in sufficient detail to determine expenditures for social, political and fraternal activities.

- Will require public employers, elected and appointed officials and other employer agents to disclose their financial dealings with unions.

- Will prohibit payments, business dealings or contributions by unions to public officials if the intent is to influence the outcome of a negotiation, grievance or arbitration.

- Will prohibit payments, business dealings or contributions by public employers to unions if the intent is to influence union activities or to interfere with an employee's rights guaranteed by PERA.

- Will prohibit compulsory employee payments to unions for social, political and fraternal activities while still allowing agreements to pay for the actual cost of representation in negotiations and grievance adjustment.

- Will establish rules governing national or international unions' taking over local unions through trusteeship.

- Will establish rules for fiduciary responsibility of union officers and employees.

Public Employment Relations Act Modernization

- The 1972 Legislature found that joint decision making is the modern way for an employer to deal with its employees. This is even more true today than then. However, the bargaining law is now 25 years old and is based on a sixty-year-old federal law.
- The amendments incorporate the experience of the Executive Branch and the Legislature over the last 25 years as well as the federal experience over 60 years.
- Protects employees from compulsory participation in union social, fraternal and political activities while allowing agreements that require payment of reasonable service fees for the union's representation services in negotiations and grievance adjustment.
- Requires that employees with law enforcement authority be in separate unions to avoid conflicts of interest.
- Prohibits supervisors and high-level managers from participation in bargaining units with subordinate employees.
- Enhances employee participation in management decisions by allowing focus groups, quality circles and other joint employee-employer committees.
- Protects private employers from becoming embroiled in disputes between public employers and public employee unions.
- Protects employees from being compelled to pay fees not reasonably related to the cost of representation.
- Streamlines and clarifies the rules for selecting an arbitrator to settle contract disputes with employees who are prohibited from striking.
- Ensures that Pioneer Home employees can be enjoined back to work should a strike threaten the welfare of residents.
- Requires that all collective bargaining agreements be written and must have a fixed expiration date.
- Requires that the Alaska Labor Relations Agency make regulations governing collection of pay differentials based on residency.
- Ensures legislative oversight over all costs of collective bargaining.
- Ensures the oversight authority of the legislative bodies of political subdivisions over the costs of collective bargaining.
- Requires that public employees working under an agreement that requires the payment of dues or fees are given notice of their right to pay only for the costs of collective bargaining.

SB
183

FEB 16 1998

League of Women Voters of Alaska

1542 East 27th Avenue, Anchorage, AK 99508
Phone (907) 272-0366 -- Fax (907) 272-0366

February 10, 1998

Honorable Lyda Green, Chair
Senate State Affairs Committee
Alaska State Legislature
State Capitol (MS 2100)
Juneau, Alaska 99801-1182

Dear Senator Green:

It has come to the attention of the League of Women Voters of Alaska that SB-183, An Act relating to voter qualification, disqualification, and registration; etc., was introduced during the 1997 legislative session and referred to the Senate State Affairs Committee, which you chair.

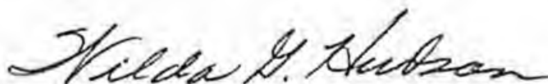
The League of Women Voters of Alaska respectfully request that a hearing on SB-183 be scheduled before the House State Affairs Committee and that such hearing be held by teleconference.

I have obtained a copy of SB-183 and have given it a quick review. It appears that many or all of the amendments proposed in the bill have merit and are worthy of consideration in a Committee hearing. The LWVAK is especially interested in Section 19 of the bill which repeals and reenacts AS 15.20.071, absentee voting by personal representative. Many League members are poll workers on election days. They feel that the present process for absentee voting by personal representative is confusing, time consuming and cumbersome for the voter, as well as the personal representative and election worker. The proposed changes would make it simpler and less time consuming for all.

Again, the League of Women Voters of Alaska, as well as our local Leagues of Anchorage. Tanana Valley (Fairbanks), Juneau, Kenai and Sitka, would certainly appreciate your scheduling a hearing on SB-183 at your earliest convenience and that it be by teleconference.

Thank you for your consideration.

Sincerely yours,



Wilda G. Hudson, President
League of Women Voters of Alaska

JAN 26 1998

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

Thanks. Brett

MEMORANDUM January 22, 1998

SUBJECT: Sectional Summary of SB 183. (Work Order No. 20-GS0095\A)

TO: Senator Lyda Green, Chair
Senate State Affairs Committee
Attn: Renee

FROM: Richard A. Glover – RAG
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 of the bill makes explicit the ability to conduct school board elections under AS 14.08.071 and 14.08.081 by mail.

Section 2 of the bill redesignates ballots previously called "questioned ballots" as "special review ballots."

Section 3 of the bill makes technical amendments to AS 15.07.070(h) to conform to the changes made by sec. 2 of the bill.

Section 4 of the bill makes technical amendments to AS 15.07.090(a) to conform to the changes made by sec. 2 of the bill.

Section 5 of the bill alters the restriction in AS 15.07.090(c) to allow a voter who transfers registration to a new election district to vote in the new election district if the transfer occurs within 30 days of the election, but only for other than that district's candidates.

Section 6 of the bill makes technical amendments to AS 15.07.090(d) to conform to the changes made by sec. 2 of the bill.

Section 7 of the bill makes changes to AS 15.07.100 to allow for the original appointment of registration officials.

Section 8 of the bill adds a provision to AS 15.07.100 that election board judges and clerks also serve as additional registration officials on election day.

Section 9 of the bill makes technical amendments to AS 15.07.130(d) to conform to the changes made by sec. 2 of the bill.

Section 10 of the bill alters AS 15.15.070(b) to require public notice of the election to be given in each Judicial district, and to correct a minor grammatical error.

Section 11 of the bill alters the content of the abbreviated notices of the election required by AS 15.15.070(h) that will be broadcast to include name, address and telephone number of the election supervisors in place of information referring to the newspaper publication of the notices.

Section 12 of the bill makes technical amendments to AS 15.07.198(a) to conform to the changes made by sec. 2 of the bill.

Section 13 of the bill makes technical amendments to AS 15.07.215(a) to conform to the changes made by sec. 2 of the bill.

Section 14 of the bill makes technical amendments to AS 15.07.225(c) to conform to the changes made by sec. 2 of the bill.

Section 15 of the bill makes technical amendments to AS 15.07.350(a) to conform to the changes made by sec. 2 of the bill.

Section 16 of the bill makes technical amendments to AS 15.07.380 to conform to the changes made by sec. 2 of the bill.

Section 17 of the bill makes technical amendments to AS 15.07.430(a) to conform to the changes made by sec. 2 of the bill.

Section 18 of the bill alters AS 15.20.015 to place new restrictions on a voter who votes absentee in their old election district because the voter has moved to a new election district within 30 days of an election. The absentee voter may only vote for statewide concerns, federal or statewide candidates, state senators if the voter's new and old residence are in the same senate district, and judges if the voter's old and new residences are in the same Judicial district.

Section 19 of the bill reorganizes the procedure in AS 15.20.071 for absentee voting by personal representative for voters with a disability. The letter from a licensed physician is no longer required. Applications are to be made by the voter, designating a personal representative. Election officials issue ballots to the designated personal representative upon proper identification and certification. A personal representative may also assist a disabled voter, except to make the voting decision. A candidate may now act as representative.

Section 20 of the bill alters the cutoff deadline under AS 15.20.018(b) for receipt of an electronically transmitted application for an absentee ballot. The new deadline is 5:00 p.m. of the last weekday before the election.

Section 21 of the bill makes technical amendments to AS 15.20.190 to conform to the changes made by sec. 2 of the bill.

Section 22 of the bill makes technical amendments to AS 15.20.205 to conform to the changes made by sec. 2 of the bill.

Section 23 of the bill makes technical amendments to AS 15.20.207 to conform to the changes made by sec. 2 of the bill, and to clarify the duties of the director of elections to notify a voter of the denial or registration of the voter by casting a special review ballot only.

Section 24 of the bill makes technical amendments to AS 15.20.211(e) to conform to the changes made by sec. 2 of the bill, and to clarify the duties of the director of elections to notify a voter of the denial or registration of the voter by casting a certain absentee ballot.

Section 25 of the bill makes technical amendments to AS 15.20.220 to conform to the changes made by sec. 2 of the bill.

Section 26 of the bill makes technical amendments to AS 15.20.480 to conform to the changes made by sec. 2 of the bill.

Section 27 of the bill makes technical amendments to AS 15.20.620(b) to conform to the changes made by sec. 2 of the bill.

Section 28 of the bill makes technical amendments to AS 15.20.640(c) to conform to the changes made by sec. 2 of the bill.

Section 29 of the bill makes technical amendments to AS 15.20.670 to conform to the changes made by sec. 2 of the bill, and to make minor grammatical corrections.

Section 30 of the bill makes technical amendments to AS 15.20.700(a) to conform to the changes made by sec. 2 of the bill, and to make a minor grammatical correction.

Section 31 of the bill makes technical amendments to AS 15.20.670 to conform to the changes made by sec. 2 of the bill, and to make minor grammatical corrections.

Section 32 of the bill alters AS 15.20.800 to prohibit elections by mail if that election is conducted at a time when any primary election is held.

Section 33 of the bill alters AS 15.58.020 to require inclusion of the Alaska permanent fund annual income statement and balance sheet for the previous 2 fiscal years to be included on the election pamphlet.

Section 34 of the bill delays the date under AS 15.58.030(a) from July 15 to August 30 of a presidential election year, that candidates for U.S. President and U.S. Vice-President may file photographs and statements with the Lt. Governor advocating their candidacy.

Section 35 of the bill alters the disclosure under AS 15.58.030(d) for candidates photographs and statements to also include disclosure that they were provided by the candidate.

Section 36 of the bill clarifies the requirements for the photograph of a candidate under AS 15.58.030(f) to allow a color portrait.

Section 37 of the bill adds a new section to AS 15.58 to provide immunity from civil suit against the state, any state official, employee, or election official, arising out of the publication of the official election pamphlet.

Section 38 of the bill alters AS 36.30.850(b)(7) to allow the state to contract for transportation of election ballots.

Section 39 of the bill makes explicit the ability to conduct coastal resource service area elections under AS 46.40.110 - 46.40.180 by mail.

RAG:pl:glc
98-009.plm

SB
185

FRAN ULMER
LIEUTENANT GOVERNOR
STATE OF ALASKA

FEB 02 REC'D

February 2, 1998

The Honorable Lyda Green
Chair, Senate State Affairs Committee
Alaska State Legislature
State Capitol, Room 125
Juneau, Alaska 99811

Dear Senator Green:

During the first session of the 20th Alaska State Legislature, SB 185, relating to voter registration list maintenance, was introduced and referred to the Senate State Affairs committee.

I am writing to ask your support in scheduling a hearing for this legislation at your earliest convenience. Under the National Voter Registration ACT (NVRA) the state's ability to do list maintenance was significantly limited. As a result, the Division of Elections has received complaints from candidates, the press, and the public about the great number of inaccuracies in our voter rolls. It is imperative that the legislature act on this issue this session so that the Division of Elections can address list maintenance issues immediately following the 1998 elections.

Prior to implementation of the NVRA in 1995, Alaska conducted an annual review and purge of the list of registered voters. This review targeted voters without recent voter history. Because one of the premises of the NVRA states that voters cannot be removed solely on their failure to vote, Alaska's list maintenance procedures must be revised.

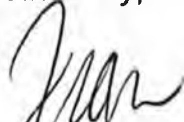
Legislation was passed in 1996 in an attempt to bring the statute into compliance with federal law, but subsequent review by the United States Department of Justice indicated that the procedures were problematic, and the Department of Justice authorized a lawsuit against the state of Alaska.

P.O. Box 110015 Juneau, Alaska 99811-0015 Phone (907) 465-3520 Fax (907) 465-5400

Senate Bill 185 was introduced to bring the state's list maintenance requirements into compliance with the National Voter Registration Act (NVRA).

I would appreciate your help in scheduling this bill for a hearing. If you have any questions, please do not hesitate to contact me or the staff at the Division of Elections.

Sincerely,



Fran Ulmer
Lieutenant Governor

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

OFFICE OF THE LT. GOVERNOR

DIVISION OF ELECTIONS
P.O. BOX 110017
JUNEAU, ALASKA 99811-0017
PHONE: (907)465-4611

April 28, 1997

The Honorable Lyda Green
Alaska State Legislature
State Capitol
Juneau AK 99801-1182

RECEIVED
APR 30 1997
Ans'd............

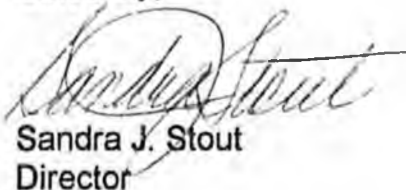
Dear Senator Green:

The Division of Elections is excited about two pieces of legislation that have been introduced this session. The first piece of legislation, SB 185, deals with voter list maintenance. We have prepared for you the enclosed quick reference guide concerning the bill in anticipation of any questions you may have prior to committee hearings.

The second piece of legislation, SB 183, is a much lengthier bill and deals with voter qualification, election notices, mail elections, personal representative voting, transportation of ballots and the official election pamphlet. A quick reference guide is also enclosed for your reference.

We hope you will find the information we've included in the reference guides useful. If you have additional questions or would like further information, please do not hesitate to contact Gail Fenumiai, of my office, at 465-3935.

Sincerely,



Sandra J. Stout
Director

Enclosures

01-A2LH

SB
209

Senate State Affairs SB 209 Privatization Studies And Information

January 20, 1998

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8. Privatization and the Emergence of For-Profit Prisons
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12. Cost Savings of Privatization
13. Privatization '95

Letters of Support

The Alaska Drilling Contractors
7620 Wildwood Circle
Anchorage, Alaska 99516

January 14, 1998

Senator Jerry Ward
Room 423
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Ward,

The drilling contractors of the State of Alaska, listed below, are very much in support of the formation of a privatization task force that you are proposing. The time to get government out of competition with private enterprize is long overdue. Our members are fully prepared to assist in your efforts in any way possible. Please keep us informed as to how we may be of help.

Sincerely,

Kyle Brown
Alaska Drilling Contractors

The Alaska Drilling Contractors are:

Tester Drilling Services - Mr. Pete Tester - (907) 349-7214
American Arctic Company - Mr. Rocky McDonald - (907) 451-4350
Aurora Drilling - Mr. Rocky McDonald - (907) 456-6712
Johnson Drilling - Mr. Steve Thomas - (907) 246-3304
Homestead Drilling - Mr. Gary Halmstead - (907) 479-8850
Hughes Drilling - Mr. John Hughes - (907) 262-6639
Discovery Drilling - Mr. Kyle Brown - (907) 344-6431
Denali Drilling - Mr. Hal Ingalls - (907) 562-2312
Oosik Drilling - Mr. John Lambe - (907) 262-5611
Fairbanks Drilling - Mr. Mike Lecorchick - (907) 479-0600
G.F. Back Drilling - Mr. Gerry Back - (907) 479-5554
Airborne Exploration - (907) 474-8121

ALASKA STATE

HOSPITAL & NURSING HOME

ASSOCIATION

January 16, 1998

Senator Jerry Ward
Alaska State Senate
State Capitol
Juneau, AK 99801-1182

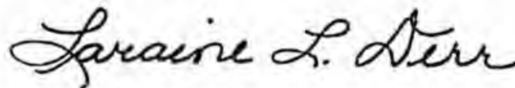
Re: Support, SB209, Task Force on Privatization

Dear Senator Ward:

Members of the Alaska State Hospital & Nursing Home Association support SB 209, relating to the task force on privatizaton. We want to thank you for bringing this matter to the attention of the Legislature and Governor.

The challenge that the annual cost of state government is exceeding the annual revenue of the state is as true in the area of health care as in any other area. Because health care is such a big part of the state government cost's, the members of the Association would like to have one of their members sit on the Task Force. They are willing to spend the necessary time it will take to investigate the possibilities.
We all need to work together in this time of declining resources.

Sincerely,



Laraine L. Derr
President/CEO

319 SEWARD STREET #11 • JUNEAU, AK 99801 • (907) 586-1790 • FAX (907) 463-3573

New Jersey Governor's Report

A REPORT TO THE GOVERNOR ON

PRIVATIZATION & COMPETITIVE CONTRACTING

A Blueprint for Saving Taxpayers Money Without Sacrificing Services

DRAWING NO.	A-1
MODEL	NEW JERSEY
SCALE	250%
DATE	1995

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Introduction

In order to reduce the tax burden on taxpayers in New Jersey, Governor Christine Todd Whitman has promised to make government leaner and smarter. The Governor's objective is to deliver to the taxpayers necessary services at the least cost.

The use of competitive contracting and privatization* can help Governor Whitman achieve this goal.

Across the country and around the world, people are turning toward competitive contracting and privatization to achieve significant savings to the taxpayers while improving the quality of services.

To investigate the ways in which New Jersey can take advantage of savings in the marketplace, the Governor formed the New Jersey Advisory Commission on Privatization by Executive Order on June 19, 1994 (appendix 1).

The Commission Chairman is Lewis M. Eisenberg, Co-Chairman, Granite Capital International Group. Commission members are Philip Beachem, Executive Vice President of the New Jersey Alliance for Action; Jane Kenny, Governor's Chief of Policy and Planning; Thomas G. Labrecque, Chairman and CEO of Chase Manhattan Bank; and Arthur J. Maurice, Vice President of the New Jersey Business and Industry Association. It was assisted by John P. Mitchell, Vice President, and Michael Esposito, Executive Vice President, both of Chase Manhattan Bank; Linda Morrison, consultant for competitive contracting; Christine Steinberg, Assistant Attorney General; Larry Weitzner, consultant; and Mark Magyar, Special Assistant to the Governor.

The Governor, in her Executive Order, asked the Commission to perform the following functions:

- Conduct a review of existing feasibility studies and actual experiences of governments that have initiated privatization efforts;
- Evaluate the advantages and disadvantages associated with privatization generally;
- Conduct a feasibility study of New Jersey state government, including a cost-benefit and implementation analysis, to identify se areas where privatization would result in cost savings and quality improvements; and
- Propose appropriate and beneficial methods of implementing privatization in this state.

The Governor further asked the Commission to suggest methods for competitive contracting that would give state employees the opportunity to compete against the private sector.

This report is the result of five months of intensive review of state operations and the input of hundreds of people from the public and private sector. A public hearing was conducted on December 8 to solicit testimony from interested parties (appendix 2).

This report provides New Jersey with a blueprint for a successful competitive contracting program. The Commission believes that implementation of these recommendations will produce lower costs to the taxpayers, better services to the public and more jobs.

The emphasis of our study was to find practical opportunities for the state to save money and maintain the quality of services through competitive contracting. The Commission believes that the state can save in excess of $200 million by following these recommendations.

The Commission recommends that it continue to investigate areas of state government it was unable to review during 1994, and that it serve as a catalyst toward seeing its recommendations carried through to implementation in 1995. The Commission is also available to study and report on how local governments and authorities can take advantage of the savings that can be realized through competitive contracting.

In the upcoming year, the Commission plans to hold round-table discussions focused on its recommendations.

The Commission worked closely with Treasury and OMB on these and other recommendations. As a result, some recommendations are already being implemented and may be included in the upcoming budget.

* Privatization can involve the sale of an asset by a governmental entity, the contracting out of services that had previously been provided by the government, or the deregulation of an area that had formerly been government's responsibility. For the purpose of this report, "privatization" will refer generally to the transfer to the private sector of services or assets. "Competitive contracting" will refer to the process of subjecting the provision of certain services to competition by comparing the true cost of government providing those services to the private sector.

Background

For the past two decades, state government spending in New Jersey has doubled every eight years. Local property taxes have risen at almost the same rate, giving New Jersey one of the highest tax burdens in the nation. That tax burden discourages new businesses from choosing New Jersey, drives away existing businesses, and takes too many dollars out of the pockets of our citizens.

The Commission believes that competition for the provision of government services will enable state and local governments to both cut costs and maintain or increase the quality or level of those services. This has been the experience of states and local governments across the country.

During its investigation, the Commission researched the concept of privatization and examined the experience of others who used privatization. The Commission met with experts in the field, mayors, legislators, government employees, and members of Governor Christie Whitman's cabinet. The Commission reviewed books, articles, pamphlets and other materials from many researchers, other commissions, academics, consultants, local governments, state governments, and the privatization experience of other countries. Privatization or competitive contracting is routinely used by thousands of governmental units.

Governments that have subjected services to competitive contracting have seen impressive results. In an 18-month period, Philadelphia subjected 21 services to competition, achieving annual savings of $30 million. Some of the services Philadelphia privatized included custodial services in City Hall, saving $344,000 a year; security guard services in the Philadelphia Art Museum, saving $1.4 million; and turf maintenance in the parks, which reduced costs over 70%.

Shortly after the city government began the privatization process for the Philadelphia Water Department's sludge processing plant, department managers and employees produced a plan to drop costs by one-third. The operation was kept in-house.

Saving money is not the only reason to privatize. Privatizing the operation of the underutilized Philadelphia Nursing Home resulted in an increase in nursing home residents served, from 295 to 500; a $4 million drop in costs; and the elevation of quality of care to meet industry standards. Privatizing the city's purchase and distribution of supplies guaranteed that office supplies would be delivered in 48 hours instead of six weeks and saved over $1 million annually.

Philadelphia was able to implement its competitive contracting program by attrition—<u>and no one was left unemployed</u>. Displaced city workers were given first hiring preference by contractors and a re-deployment unit was set up in the city's personnel department to transfer workers to open positions in other functions.

Since 1991, Indianapolis has saved $28 million a year from operations that have been privatized or where competition has prompted public employees to find alternative cost savings.

The city of Indianapolis recently signed the largest privatization contract for the operation of a wastewater treatment plant in the United States. Private management of the plant will save $12 million in 1994. In addition, the city bid out ten trash collection districts. Four private companies won seven districts, while the Department of Public Works won three districts. Taxpayers won a three-year savings of $15 million.

Indianapolis worked hard to implement its competitive contracting program without leaving individual workers jobless. They eliminated positions through attrition, reassigned workers and encouraged the private firms to hire government employees.

Mayor Richard Daley of Chicago has privatized 35 services in four years, including sewer maintenance, health care at city-run clinics, drug and alcohol treatment, and window washing. In every case, costs have dropped and quality has been maintained.

Most privatization to date has been accomplished at the local level. However, there is growing interest in the concept of privatization by state governments. According to the Council of State Governments' privatization survey of 1993, states are increasing their privatization activity in correctional support services, transportation services, social services, health care, and administrative and general services. More than 85% of state auditors, budget directors, and comptrollers responding to the survey predicted increased privatization in the next five years.

In recommending ways to deal with state problems, the National Governors' Association's *Action Agenda to Redesign State Government* observed that, "Privatization enhances government's ability to respond to these challenges by offering an innovative alternative to traditional methods of organizing, financing and delivering public service."

In Michigan, the state's liquor distribution system was privatized. Three warehouses and 66 state-owned liquor stores were closed, saving $15 million per year.

In Massachusetts, the state has privatized highway road repair, ice skating rinks, a state mental health hospital, and prison food and health services.

The Texas legislature created a permanent Council on Competitive Government and directed it to review state services to determine whether competition would improve productivity. A new Texas law allows private firms to make unsolicited proposals to provide state services. Government agencies are then required to conduct an analysis and seriously consider the alternative presented.

National governments have also been successfully privatizing. Since 1980, Great Britain has been a leader in all forms of privatization, most notably its airports. British privatization efforts have transferred numerous state-owned companies back to the private sector, transferred ownership of public housing units to their tenants, and contracted out many municipal services. In 1988, the Compulsory Competitive Tendering Act was passed, requiring local governments to put services out to bid on a regular basis. Overall, 64% of British local government units saw some decrease in costs due to contracting out: 16% realized savings of over 20%, and 24% realized savings of 10-20%. This strategy has produced a number of useful indirect benefits, including better cost information and better management practices.

The city of London has the world's largest system of competitively-contracted bus service, with more buses under contract than are operated by all U.S. transit agencies except New York. Almost 50% of London Transport bus service is competitively contracted. Many contracts have been won by government managers and employees. As a result, both contracted-out and in-house bus costs per mile have declined more than 25% and service quality has improved.

Closer to home, in Mercer County, County Executive Bob Prunetti saved $6 million by privatizing custodial services and maintenance for county buildings, food service at the jail, and the county engineering department. Public employees were offered jobs with the private firms or other government agencies. Bergen County Sheriff Jack Terhune saved $1.8 million by contracting out food and medical service at the jail.

The township of North Brunswick has saved $1.6 million since 1985, as a result of contracting out its water treatment operation. The borough of Caldwell saved taxpayers 33% on operating costs for their wastewater treatment plant through competitive contracting. Newark contracted out the operation and maintenance of its water treatment facility and cut annual costs by $1 million.

The evidence is overwhelming that injecting competition in the provision of government services produces typical savings of 15-25%, while maintaining or increasing service quality.

Implementing a Competitive Contracting Program

AVOIDING THE PITFALLS

While the Commission reviewed many successful examples of privatization at all levels of government, some efforts did not deliver as promised. Although the Commission believes that these unsuccessful examples are the exception rather than the rule, they do provide some important lessons for any government agency considering privatization.

Public employee unions brought to the attention of the Commission instances where competitive contracting efforts were plagued by unqualified contractors, contracts that were ultimately more costly than if the service had remained in-house, poor contractor performance, and cutbacks in service. The unions emphasized that they should be included in efforts to improve service and save money, and they expressed their concerns about the potential negative impact of privatization on individual union members.

These are all serious concerns. Competitive contracting only makes sense if it can save the taxpayer money without diminishing the level of service.

The Commission concluded that, in most instances where privatization had not succeeded, the failure was directly attributable to a complicated process, inadequate planning, and a lack of quality control on the part of top management. Most of the mistakes were found in the following areas:

- The lack of good cost information on which to base decisions.
- Poor procurement procedure—especially regarding performance standards, contractor qualifications and contract monitoring.
- Assuming that privatization is always better and not giving in-house managers and employees an opportunity to improve their operation and keep the work.
- Poor implementation plans, especially regarding the impact of contracting out on existing employees.

However, the Commission believes that intelligent management of a competitive contracting program will ensure that these errors are avoided.

To avoid the possibility that one private contractor could hold unreasonable control over the provision of a service, competitive contracting should be attempted only where a sufficient pool of qualified bidders exists.

Quantifiable and measurable performance standards should be established and the contractor's performance should be carefully monitored.

Public employees currently providing a service should be given the opportunity to compete with private bidders. If a contract is awarded to an outside provider, any employment changes due to competitive contracting should be implemented in a manner that mitigates any negative impact on employees.

As the state moves forward on particular initiatives recommended in this report, special attention should be given to the following:

1. **Cost Accounting**

   During its investigation, the Commission heard concerns about accurate and complete cost accounting. New Jersey State Senators Richard LaRossa and Peter Inverso were persuasive advocates for reliable and complete cost analysis in any competitive contracting program. They stressed, and the Commission agrees, that the state must have a good idea of its internal costs before awarding any contracts to private providers.

   Cost analysis is a methodology used to determine the cost of providing goods or services. Total cost is defined as all direct and indirect (overhead) costs attributable to the service being analyzed. The major categories of direct costs are salaries, wages and overtime, fringe benefits, supplies and materials, equipment, purchased services, maintenance and repair, rent, utilities, insurance, and equipment and service monitoring costs.

2. **Intelligent and Competitive Purchasing Process**

   In order to receive good service at a good price, the state must do a good job putting the service out for competition. The state must have a clear idea of the desired end-results, establish quantifiable and measurable performance standards, develop a contract monitoring plan, and consider only qualified contractors with good references. The state must make sure the contract's structure makes sense—especially concerning the size of the contract, how it is priced, and the length of the contract. Evaluation criteria should stress quality as well as price.

3. **Allowing the In-House Operation to Compete**

   The Commission's investigation of efforts in other jurisdictions revealed that subjecting a service to competition provides a real incentive for the existing operation to make itself more efficient.

   Departmental managers, employee union representatives, departmental fiscal officers, budget analysts, and others should work closely to formulate a plan that responds to the expected competition.

   This may be the best time to employ Total Quality Management and Work Process Improvement procedures to respond to competition. We suggest these strategies be reviewed simultaneously with the bidding process.

RECOMMENDATIONS

Summary of Savings

	Initiative	Estimated Annual Savings
1.	Newark Airport	To be determined
2.	Garden State Arts Center	To be determined
3.	Toll Road Operations	To be determined
4.	Inmate Health Care	$16.1 million
5.	Prison Food Service	$14.4 million
6.	Inmate Commissary	$500,000
7.	Prison Operations	$7-14 million
8.	Prescription Drugs	$40 million
9.	Medical Savings Account	$25 million
10.	Flexible Benefit Program	$15-37 million
11.	JUA/MTF Claims Settlement	$50 million
12.	Motor Vehicle Services	$3-6 million
13.	Technology	$70 million
14.	Revenue Collection	To be determined
15.	Wastewater Treatment Plants	$1 million
16.	Capital Transportation Projects	To be determined
17.	Veterans Memorial Home	$3 million
18.	Sports Authority	To be determined
19.	Passaic Valley Sewerage Commission	To be determined
20.	Miscellaneous Competitive Contracting Proposals	$30 million

4. Implementation by Attrition

The most successful programs were implemented with the goal of minimizing the impact on affected employees. As much as possible, the state should implement job changes caused by competitive contracting through attrition. The state should offer workers displaced by competitive contracting "first hiring preference" for open positions in other areas of government and provide training, if necessary. In addition, every effort should be made to ensure that contractors give "first hiring preference" to existing state employees. For those for whom jobs cannot be found, the state should develop a severance pay system and an outplacement support program to help displaced workers make the transition to other work.

5. Legislative and Legal Issues

A close evaluation of all the legal issues relevant to any privatization or competitive contracting initiative discussed in this report will be necessary as specific proposals are developed. In some instances, legislation may be needed to facilitate the implementation of a particular program or initiative. In cases where an asset or improvement was acquired or constructed with the proceeds of a tax-exempt financing, the potential impact of any proposed initiative on the holders of any outstanding bonds should be considered. In such cases, restrictions imposed by current federal tax laws and subsequent rulings must be considered to preserve the tax-exempt status. In addition, the requirements of existing contracts and federal laws and regulations must be evaluated.

Newark Airport

BACKGROUND

Newark Airport is operated by the Port Authority of New York and New Jersey (PA) under a long-term lease with the city of Newark. The land in Elizabeth is owned by the PA. A majority of the terminals and parking are on land owned by Newark and leased to the PA.

25.8 million passengers used Newark Airport in 1993, up 6% over the previous year. It is one of the most trafficked airports in the country (JFK had 26.8 million passengers in 1993, down 3%).

Newark Airport generated a profit of $52 million to the Port Authority in 1993.

Federal law restricts airport profits from being used for anything other than the airport. The Port Authority is exempt from this law and uses profits to subsidize money-losing operations such as PATH.

Many of the functions in the airports are operated by private contractors under contract with either the PA or individual airlines.

Airports operated by private firms include Burbank, Atlantic City, Stewart and Teterboro. No major U.S. airport is currently owned or operated by a private company.

CURRENT SITUATION

Private airport operators believe that they can operate the airport more efficiently and at a lower cost than the Port Authority. One private operator estimated a savings of at least 20% is possible.

Private operators at other airports have had great success in improving revenues by expanding retail operations.

The Reason Foundation and other research groups have argued that the private sector can improve the quality of airport operations—manage flight times better, attract new investments to the airports and improve the quality of service.

The British have had great success in privatizing their ten airports. Indianapolis issued an RFP to private firms to operate their airport for a term of up to ten years under a lease or management contract basis (Indianapolis serves 3 million passengers a year and would be the largest U.S. airport privately operated). Pittsburgh has improved its operations through private management and generated additional revenue by aggressive marketing of their retail operations.

Opponents of privatization argue that the Port Authority has successfully operated Newark Airport for many years. It is a growing and highly profitable enterprise. If it's not

broke—why fix it? They also argue that a private firm may not have the region's long-term interest at heart and may not be willing to make necessary capital investments.

Los Angeles and Albany both failed in efforts to sell their airports to the private sector, due, partly, to opposition from the FAA, airlines and unions.

CONCLUSIONS AND RECOMMENDATIONS

Given the short-term obstacles, selling the airport is an option that should not be pursued at this time.

The Commission recommends that the Port Authority finance a three-to-six month study of opportunities for improving airport operations through either a lease or management contract with a private airport operator. The study might be a coordinated effort among the PA, the Governor's office and the Commission.

Subject to the above study, if significant savings can be realized and we are assured of quality management, operation of Newark Airport should be subjected to competition.

The Port Authority should be allowed and encouraged to compete for this contract. If the PA wants to bid, a procedure would be needed to allow for a fair evaluation of their proposal as compared to the private proposals.

Under a management agreement, the PA might retain responsibility for bonding and for capital and long-term planning. The private firm could be charged with the responsibility of management of the airport and the related construction program.

A management contract would require the approval of the Board of the Port Authority and Governors Whitman and Pataki.

Garden State Arts Center

BACKGROUND

The Garden State Arts Center is operated by the New Jersey Highway Authority. When opened 27 years ago, this was a state-of-the-art amphitheater and very successful in attracting talent. However, in order to remain competitive in today's environment it will need to increase its current capacity of 10,802 (5,300 of which are under cover) by 10,000 to 20,000 additional seats.

The limited seating capacity has made attracting talent more difficult, led to higher ticket prices, and resulted in flat revenues and minimal profits for the past three years. This problem will only get worse as the facility obsolescence increases over time.

The trend in the amphitheater business is toward partnerships where government provides the land and infrastructure, and the private sector manages the amphitheater and takes the business risks.

Below are some examples:

Facility	Location	Operated by
Blossom	Ohio	M.C.A.
Nassau Veteran Coliseum	Long Island	Spectator Mgmt. Group (SMG)
Louisiana Superdome	Louisiana	SMG
Jones Beach Theater	Long Island	Delsner/Slater
Hartford	Connecticut	Nederlander Group
Camden	New Jersey	Sony/Pace

CURRENT SITUATION

The New Jersey Highway Authority has recently completed a Request For Proposals (RFP) designed to competitively contract/privatize their facility. The Authority left open the RFP options of sale versus long-term lease and whether or not alcohol will be sold.

The Highway Authority hopes to receive an annual fee from a successful bidder plus an additional override based on "real" profits.

CONCLUSIONS AND RECOMMENDATIONS

The Garden State Arts Center is an ideal opportunity for competitive contracting/ privatization. The Arts Center is in need of a significant capital infusion to compete and continue to offer quality entertainment at reasonable cost to the residents of New Jersey. Successful competitive contracting/privatization of the facility to a private sector entrepreneur will provide private capital and could create a significant revenue source for the Authority.

Private investment is likely to benefit everyone—the taxpayers, the Arts Center customer, the state government, and the entrepreneur.

The Commission commends the Highway Authority for moving forward with the evaluation of privatization options for the Arts Center and for making the RFP as flexible as possible to ensure the maximum level of private sector interest in the project.

TIMELINE FOR IMPLEMENTATION

Earliest implementation 1996.

ESTIMATED SAVINGS

Undetermined at this time.

Toll Road Operation and Maintenance

BACKGROUND

New Jersey has three toll roads operating under state-created authorities. The South Jersey Transportation Authority operates the Atlantic City Expressway. The Turnpike Authority operates the New Jersey Turnpike. The New Jersey Highway Authority operates the Garden State Parkway.

The 1994 revenues of the South Jersey Transportation Authority were approximately $30 million, expenses were about $25 million, debt service was approximately $5 million. A payment of $2.5 million was paid to the state for the Transportation Trust Fund.

For 1994, the New Jersey Turnpike Authority's revenues were approximately $345 million, operating expenses were about $177 million, debt service was $155 million and $12 million was paid to the state for the Transportation Trust Fund.

The New Jersey Highway Authority operates the Garden State Parkway and the Garden State Arts Center. Annual revenues for the Parkway were approximately $185 million, annual expenses were approximately $123 million. Annual revenues for the Arts Center were $13 million and expenses were $11 million. Interest income was $7 million, debt service was $51 million, and $10 million was paid to the state for the Transportation Trust Fund.

Because of stagnating revenues, rising operating costs and increasing debt payments, the toll roads are coming under increasing pressure to raise tolls.

CONCLUSIONS AND RECOMMENDATIONS

The Commission believes that private operation of the toll roads could reduce costs and increase revenues while maintaining or improving service. The savings from private operation might reduce the need for future toll hikes. Electronic toll collection and other new technologies that would improve customer service may be introduced sooner and at less cost by private contractors.

New roads in California and Virginia are being constructed, operated and maintained by the private sector. In Florida, the Orlando County Expressway Authority is contracting with Parsons Brinkerhoff to operate and maintain the expressway and beltway in Orlando.

The toll roads should explore private sector alternatives by soliciting privatization proposals from qualified, financially-strong private operators.

The scope of services for a private operator needs to be determined, but the Authority could retain title to the real estate and approval over toll and pricing policies.

Alternatively, the Authorities could consider contracting out further operations, such as toll collection and road maintenance.

An RFP, which contains performance standards and contract monitoring procedures, should be issued to qualified operators. The in-house managers and employees can be encouraged to submit a plan to be competitive with anticipated private contractor proposals. The Authority should award the contract to qualified private contractors if the Authority receives a proposal that would reduce costs without reducing the quality of service.

TIMELINE FOR IMPLEMENTATION

1-2 years.

ESTIMATED SAVINGS

If the Authorities were able to reduce costs by 10-15% and increase revenues 5-7%, substantial savings would be achieved.

Inmate Health Care
Department of Corrections

CURRENT SITUATION

The Department of Corrections operates 14 prison facilities dispersed throughout the state. A preliminary cost analysis shows that health care for 20,000 inmates housed in state facilities is approximately $70 million. Inmates who need hospitalization are transported at considerable expense to a unit in St. Francis Hospital in Trenton. The annual per-inmate cost of the present in-house system is approximately $3,500.

In the last ten years, a corrections health care industry has developed. There are a number of experienced, reputable and financially-sound competitors who would respond to an RFP. Corrections systems which have contracted out health care report significant cost savings and/or increases in service quality.

CONCLUSIONS AND RECOMMENDATIONS

The Commission believes that subjecting the provision of prisoner health care to competitive contracting would substantially reduce the cost to taxpayers of providing this service without sacrificing the quality of the service.

Massachusetts and the city of Philadelphia are among the many prison systems that have contracted out prison health care.

An RFP, which contains performance standards and contract monitoring procedures, should be issued to qualified operators. The in-house managers and employees can be encouraged to submit a plan to be competitive with anticipated private contractor proposals. The Department should award the contract to qualified private contractors if the Department receives a proposal that would reduce costs without reducing the quality of service.

TIMELINE FOR IMPLEMENTATION

An RFP could be issued by March 1 and a contract awarded by November 1.

ESTIMATED SAVINGS

Savings of $16.1 million per year could be realized were the state able to reduce its per-inmate cost to $2,700 through competitive contracting.

Prison Food Service
Department of Corrections

CURRENT SITUATION

The Department of Corrections operates 14 prison facilities dispersed throughout the state. Preliminary cost analysis shows that the Department serves approximately 24.5 million meals to 20,000 inmates and 7,000 staff at a cost of approximately $45 million or $1.84 per meal. Inmates are trained and supervised in the preparation of meals. The Bergen County Sheriff's Department reported to the Commission that their service was contracted out at a cost of $1.09 per meal.

The corrections food service industry is well-developed. There are a number of experienced, reputable and financially-sound competitors who would respond to an RFP. Correction systems which contracted out food service report significant cost savings, increase in service quality, and enhanced inmate culinary training programs.

CONCLUSIONS AND RECOMMENDATIONS

The Commission believes that subjecting the delivery of food service to competitive contracting would substantially reduce the cost to taxpayers of providing this service without sacrificing the quality of the service. The experience of Bergen and Mercer counties and other government jurisdictions shows that this service can be provided at costs well below what the state is now paying.

The Commission recommends a cost accounting be completed, showing all costs of delivering the service including service monitoring costs. An RFP, which contains performance standards and contract monitoring procedures, should be issued to qualified operators. The in-house managers and employees can be encouraged to submit a plan to be competitive with anticipated private contractor proposals. The Department should award the contract to qualified private contractors, if the Department receives a proposal that would reduce costs without sacrificing quality.

TIMELINE FOR IMPLEMENTATION

An RFP could be issued this spring and a contract awarded by January 1, 1996.

ESTIMATED SAVINGS

Savings could reach $14.4 million per year based on $1.25 per-meal cost.

Inmate Commissary
Department of Corrections

CURRENT SITUATION

The Department of Corrections operates 14 prison facilities dispersed throughout the state. Currently, the Department maintains 14 separate commissary operations that sell a variety of items such as toothpaste, cigarettes and potato chips to its 20,000 inmates. The commissaries are "pick and bag" systems where inmate workers select merchandise from a written order form. The merchandise is put in a bag by prison workers and is either delivered to individual inmates in their cells or picked up at a centralized location. State employees purchase the merchandise and handle the bookkeeping and accounting for commissary transactions.

A preliminary review of the revenues and costs of the present system shows that these 14 commissaries are run at approximately break-even.

The corrections commissary industry is well developed. There are a number of experienced, reputable and financially-sound competitors who would respond to an RFP. Private commissary operators have been able to save other states money by taking advantage of their nationwide buying power. Private operators also employ sophisticated systems for ordering, inventory management and inmate account processing. Correction systems which have contracted out commissary services report increases in service quality, lower costs and additional income from more profitable sales.

CONCLUSIONS AND RECOMMENDATIONS

The Commission believes that subjecting the operation of commissary service to competitive contracting would substantially reduce the cost to taxpayers of providing this service without sacrificing the quality of the service.

It is also likely that the commissaries can be run more profitably by a private firm. Private commissary operators typically sign concession agreements where they are allowed to sell personal items to inmates and the prison system receives a percentage of the sales.

The Commission recommends a cost accounting be completed, showing all costs of delivering the service including service monitoring costs. An RFP, which contains performance standards and contract monitoring procedures, should be issued to qualified operators. The in-house managers and employees can be encouraged to submit a plan to be competitive with anticipated private contractor proposals. The Department should award the contract to qualified private contractors, if the Department receives a proposal that would reduce costs and increase profits without sacrificing quality.

TIMELINE FOR IMPLEMENTATION

An RFP could be issued by May 1, 1995 and a contract awarded by February 1, 1996.

ESTIMATED SAVINGS

Savings could be realized through increased revenues of about $500,000.

Prison Operations
Department of Corrections

CURRENT SITUATION

The Department of Corrections operates 14 prison facilities dispersed throughout the state. There are approximately 20,000 inmates. Bayside State Prison in Cumberland County is a combined medium- and minimum-security prison with a population of approximately 2,000 inmates and operating costs of approximately $52.6 million per year. Mid-State Correctional Facility in Burlington County is a medium-security prison with a population of 570 inmates and an annual operating cost of approximately $21.5 million. A new prison in Bridgeton is being constructed for 3,000 inmates and is due to be completed in 1997.

Prisons are being operated by private firms in several states, including Texas, Florida, California, New Mexico, Arizona, Kentucky and Mississippi.

In the last ten years, a private corrections management industry has developed. There are a number of experienced, reputable and financially-sound corrections management firms which would respond to an RFP. Correction systems which have contracted out specific prisons report significant cost savings and/or increases in service quality.

CONCLUSIONS AND RECOMMENDATIONS

The Commission believes that subjecting the operations of prisons to competitive contracting would substantially reduce the cost to taxpayers of providing this service, without sacrificing the quality of the service.

The Commission recommends that a cost accounting be completed for both Bayside and Mid-State, showing all costs of delivering the service including service monitoring costs. An RFP, which contains performance standards and contract monitoring procedures, should be issued to qualified and experienced operators. Great care should be taken in this procurement process to allay concerns about public safety and loss of control to an unqualified contractor.

The in-house managers and employees should be encouraged to submit a plan that would be competitive with anticipated private contractor proposals. The Department should award the contract to qualified private contractors if the Department receives a proposal that would substantially reduce costs without sacrificing public safety.

An RFP should be issued in 1997 for the operation of the newly-constructed state prison in Bridgeton.

TIMELINE FOR IMPLEMENTATION

An RFP could be issued by June 1, 1995 and a contract awarded for Mid-State and Bayside by February 1, 1996.

ESTIMATED SAVINGS

It is difficult to estimate savings because each prison facility is unique. The Department will not know what savings or operational improvements are possible until an RFP is issued and qualified contractors respond. However, based on the experience of other governments, savings of 10-20%—or $7-14 million—may be realized by subjecting both Bayside and Mid-State to competition.

Millions in avoided future costs might be saved by private operation of Bridgeton.

Prescription Drug Management Program

BACKGROUND

Prescription drugs represent one of the fastest growing cost components of the health care network. Management of prescription drug costs is common in the private sector. These programs typically save between 10% and 15% of prescription drug expenditures while improving monitoring of patient drug use. An estimated 47 of New Jersey's top 100 employers utilize prescription drug benefit management.

Benefit management reduces overall costs to government for prescription drugs and minimizes the opportunity for fraud and abuse.

CURRENT SITUATION

New Jersey governments subsidize prescription drug costs in various programs with no managed benefit system. These programs include Medicaid ($165 million/year) and Pharmaceutical Assistance to the Aged and Disabled ($169 million/year). State government has successfully applied managed benefit techniques in the government employee New Jersey Prescription Drug Program ($67 million/year). There are, however, 300,000 government employees and 145,000 government retirees who do not participate in the New Jersey Prescription Drug Program and who may not receive the cost and service benefit of managed prescription drug benefits.

Drug manufacturer rebates are provided to state government in the Medicaid and PAAD programs. Even with these rebates—which equaled $77 million for state purposes in the latest year—New Jersey's average prescription costs are higher than the industry average, due, in part, to less use of generics and higher provider compensation than in the private market.

CONCLUSIONS AND RECOMMENDATIONS

The Commission recommends that a prescription drug benefit management be implemented in all government prescription drug programs along the following lines:

- All pharmacists should be allowed access into any prescription benefit network as required under state "willing provider" legislation.
- State requirements for network access should exceed federal Medicaid standards providing maximum choice for recipients.
- Utilization reviews should be mandated under a prescription benefit program.
- The benefit managers should assure access to necessary medication. However, incentives should be created to encourage use of preferred drugs.

Medical Savings Accounts

BACKGROUND

The state's Health Benefit Plan covers approximately 310,000 employees—active and retired—in state government, school boards, municipalities, agencies, authorities and counties. Benefit costs are one of the single highest expenditure categories in the state budget.

Currently, the choices offered are traditional indemnity insurance with a low deductible and HMO-type plans where choice in care is limited. This coverage costs $7,000 per family for an indemnity plan and $6,000 for an HMO-type plan.

Under the current system, there is almost no incentive for the individual employee to shop for the best price and care or to limit the amount of care purchased.

CURRENT SITUATION

In the last few years, a growing number of private and government organizations have used Medical Savings Accounts to lower employee health care costs, including the Golden Rule Insurance Company of Indianapolis, Forbes, the Spurwink School in Portland, Oregon, and the United Mine Workers of America.

A typical plan works like this:

1. The employer purchases a high-deductible ($2,000–$3,000) catastrophic insurance policy for the employee. The premiums on these policies could be 40% lower than the premiums on low deductible policies.

2. The employer deposits the amount of the deductible in a special account for the employee to spend on medical expenses, including IRS-recognized care such as eye care, dental, physicals, preventive care, etc. The employee has total freedom in choosing who delivers the care. If the employee does not spend the full amount, the employee can keep the difference.

CONCLUSIONS AND RECOMMENDATIONS

Medical Savings Accounts will give power to consumers who will benefit financially from prudent spending. Medical Savings Accounts would turn the present incentives around, giving state employees the fruits of controlling health care costs. Benefit costs can be lowered without reducing the quality of health care.

The state should carefully review the experience of others who have used Medical Savings Accounts, and tailor a plan that would provide good medical coverage for employees and significantly reduce costs.

TIMELINE FOR IMPLEMENTATION

The Commission estimates that an agreement to establish Medical Savings Accounts could be negotiated with employee unions, necessary statutory changes made, and a new program implemented before the end of 1995.

ESTIMATED SAVINGS

Estimate: 5% savings of current costs. Savings to state budget: $25 million. Savings to other budgets: $41 million.

Flexible Benefit Programs for Government Employees

BACKGROUND

New Jersey state government does not offer flexible benefit, or so-called "Section 125" cafeteria plans for its employees.

In their simplest form, these plans, which are common in the private sector, allow employees to make payroll contributions on a tax-deductible basis for health care and dependent care/child care spending accounts. The employee reduces his or her taxes and has money available to pay health care deductibles/copayments and other out-of-pocket expenses for child care. Employers save because no employer Social Security taxes are paid on amounts employees contribute to these plans.

Another advantage of flexible benefit plans is that they facilitate the offering of health insurance opt-out programs to government employees whose spouses have duplicative health insurance coverage.

There is a mature industry of vendors experienced in establishing flexible benefit plans for the private and public sectors who can craft plans that will maximize employee benefits and employer savings.

Health insurance opt-out programs encourage employees to drop duplicative health insurance policies where a family member also has coverage. The financial savings are great for employers who share their savings with participating employees in the form of incentive payments.

CURRENT SITUATION

Flexible benefit plans are common in the private and public sector. According to a recent national survey of private and public sector organizations with 1,000 or more employees, 59% of organizations offered health care spending accounts and 60% of organizations offered dependent care accounts.

The two most common flexible benefit plan programs—tax-free payroll contributions to health care spending and dependent care accounts—are popular options with employees that also reduce employer Social Security tax payments (typically 7.65% on most of the employee payroll contribution).

New Jersey is one of only two states that has not conformed its state tax law with federal tax code as regards health insurance opt-out plans. In New Jersey, an employee can be taxed on the value of the opt-out incentive payment even if the employee does not opt to take the incentive payment. The federal government and 48 states only tax the incentive payment, if received.

Many local governments would like the ability to offer "full service" flexible benefit plans to their employees. The program is supported by the League of Municipalities and the Association of Counties.

CONCLUSIONS AND RECOMMENDATIONS

The Commission recommends that:

- New Jersey law be modified as needed to permit governments to offer a full range of flexible benefit options to government employees;
- State government offer, at a minimum, health care and dependent care spending account options with a corollary incentive program to allow employees to opt out of duplicative health insurance coverage;
- The legislature move to enact legislation conforming the state tax code to the federal code as regards health insurance opt-out payments.

TIMELINE FOR IMPLEMENTATION

An RFP for health plan administrative services was issued in November 1994. Procurement of an administrator to establish and operate a flexible spending account could occur shortly. This program could start in 1996.

ESTIMATED SAVINGS

Applying the typical plan design and employee participation rates found in existing flexible benefit plans to New Jersey state government results in annual savings estimates of between $15 million and $37 million, once the plan is fully utilized.

JUA/MTF Automobile Insurance Claim Pools

BACKGROUND

The New Jersey Full Insurance Underwriting Association (JUA) and its successor, the New Jersey Market Transition Facility (MTF), were insurance companies created by state government to write "bad driver" policies. The companies stopped writing policies in late 1993. However, there are outstanding claims estimated at $1.5 billion that must be settled and another $500 million of deferred claims that must be paid.

CURRENT SITUATION

The JUA and the MTF have separate, duplicative administrative staffs and will spend approximately $30 million during 1995 and 1996 on administration. Beginning in 1997, administrative costs will drop dramatically as the number of open claims decline.

Presently, 19 servicing carriers settle claims for the JUA/MTF. Servicers are compensated a set claim fee that varies by type of claim. There are no economic incentives for servicers to seek to reduce claim costs. Servicers are also compensated for direct expenses which have averaged $11 million per month for the past year.

CONCLUSIONS AND RECOMMENDATIONS

The Commission believes the present system does not provide sufficient control nor incentives to reduce cost. Such controls and incentives could best be provided by private administrators.

The Commission recommends the following actions:

- The Department of Insurance should competitively consolidate and contract the management of the JUA and MTF pools;
- The private manager should negotiate termination contracts with inefficient carriers and be prepared to take over any remaining claims;
- The private manager should be given incentives to cost-effectively manage claim settlements and expense requests.

TIMELINE FOR IMPLEMENTATION

An award to administer the program could be made in four months. However, implementation of the full plan with removal of inefficient carriers may take longer.

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION

Rev. 6/98

Central Microfilm Services
Departement of Education
State of Alaska

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ESTIMATED SAVINGS

Savings occur from several actions. Consolidating administration of the two pools would save $4 million. Exit payments representing refunds of servicing fees paid in advance to terminated carriers could approximate $7 million. Assuming a 3% improvement in claim cost settlements, a 10% reduction in expense reimbursements, and competitive vendor incentive payments, bringing in a qualified manager should produce savings of $40 million. These estimated savings total approximately $50 million.

Motor Vehicle Services

BACKGROUND

In most states, vehicle inspection is provided by licensed private garages. New Jersey is one of only three jurisdictions with a government-operated motor vehicle emissions and safety inspection system, although New Jersey also permits private inspection as an adjunct to its centralized system. New Jersey is presently negotiating with the federal Environmental Protection Agency (EPA) over changes in the vehicle emissions testing program to ensure compliance with the federal Clean Air Act. Nationwide, a private industry exists that specializes in the establishment, management and construction of enhanced systems to provide the required inspection services.

Because this is a new program, any changes will increase system capital and operating costs.

CURRENT SITUATION

New Jersey presently has 35 vehicle stations with 86 vehicle inspection lanes, operated at a cost of approximately $30 million annually. This state-operated system is staffed with 600 employees. Additionally, there are about 4,000 private inspection centers that perform about 25% of all inspections.

New Jersey's experience with private inspection stations has been a success. Motorists are familiar with the program; licensed private garages have successfully performed inspections and repairs; and motorists have favored the convenience option this provides to them. However, federal mandates limit the ability of combined inspection/repair private facilities to fully participate in the program. Although under the Clean Air Act inspection/repair private facilities will continue to play a role, EPA requires New Jersey to operate a centralized system for Clean Air Act inspections.

The state's Division of Motor Vehicles has explored competitive contracting options for this centralized system.

CONCLUSIONS AND RECOMMENDATIONS

The Commission recommends that New Jersey competitively contract operation of its state-operated emissions inspection system by including the following in the RFP:

- One or two vendors to operate the system.
- A 5-10 year contract, with determination of optimum number of lanes/ locations based on state performance standards.
- Vendor lease or ownership of state-owned facilities, with rehab of lanes performed by the vendors.

- Vendor acquisition of new facilities/lanes; title transferred to state at end of contract.

- Vendor option as to policy vis-a-vis current employees, with a minimum requirement that current employees receive hiring preference.

- Minimizing of driver inspection fees.

However, the Commission recommends that the above not be included in statute, so managers can maintain maximum flexibility. The Commission also recommends continuation of the combined inspection/repair private option in the state's reconfigured emissions control system.

TIMELINE FOR IMPLEMENTATION

Much of the groundwork for drafting of an RFP has been accomplished. Therefore, the process can begin without undue delay. The following schedule is achievable:

RFP response preparation	3 months
Proposal evaluation and selection	3 months
Protest period/contract award	4 weeks
Implementation	12 months

ESTIMATED SAVINGS

Competitive contracting of existing emissions inspections will reduce annual state spending by approximately 10-15%, or based on the present system, a $3-6 million savings.

Savings estimates do not include avoided operations and capital costs related to compliance with the Clean Air Act. Privatization of the Clean Air Act emissions system may provide an additional opportunity for savings.

Technology

BACKGROUND

State government's use of technology is extremely complex. The total scope of technology and the costs associated with it are not readily available. The Office of Telecommunications and Information Services (OTIS) is the central data center and has a budget of $89 million. Their budget is exclusive of a variety of direct costs (i.e., employee benefits, depreciation, rent, etc.) which would normally be included in cost estimates developed by the private sector.

The growth of technology in state government has occurred without the benefit of a strategic game plan. This has created inefficiencies and promoted the expansion of technology related activities outside of OTIS. Estimates are that in excess of $200 million per year is spent on technology in the State Department outside of OTIS. It is possible that this estimate could be in a range from $300 million to $400 million when all costs are factored in.

CURRENT SITUATION

New Jersey's major systems are currently run on a variety of hardware and much of the software and hardware are antiquated. Common standards and procedures do not exist. This impedes the implementation of cost-efficient technology.

A well-designed procurement system is critical to implementing state-of-the-art technology in a cost-effective manner. The current procurement process is time-consuming, cumbersome and does not maximize leverage or support the benefits of equipment standardization.

At a time when technology is dramatically growing, changing, and becoming more critical, as well as costly, New Jersey does not have a central point of responsibility and there is no overall vision or strategic plan for technology in state government.

To date, efforts to re-invent the technology area have been confined to OTIS, which comprises less than one-third of the technological activities in the Executive Branch.

OTIS has limited resources to respond to the day-to-day needs of its current customers and virtually no resources to dedicate to defining a strategic direction.

In addition to OTIS, virtually every department of state government has its own technological component. The costs associated with those individual components are difficult to identify and are understated due to the lack of a cost-accounting system.

An RFP to study OTIS has been issued. This focuses solely on OTIS and is not designed to deal with the overall issues of technology in the state.

CONCLUSIONS AND RECOMMENDATIONS

Given the critical importance of technology and information today and in the future, as well as the need for a strategic direction, consideration must be given to elevating this function within the Executive Branch or to the creation of a public corporation to manage all technology. Unless this function has departmental level authority, significant change is unlikely. Nine states have created a Chief Information Officer position, reporting directly to the Governor. The State of California has just completed an extensive study of technology—the first recommendation was for Governor Wilson to create a C.I.O. reporting to him.

In the short term, OTIS should move ahead with a baseline study of its organization and structure. OTIS is only a part of the problem; however, such a study should still identify savings opportunities in the $5 million to $10 million range.

The Treasury should prepare an RFP requesting a comprehensive study of all technology units in state government. The focus of the effort should be to derive efficiencies from consolidation and standardization. Technical experts indicate that this type of effort has typically resulted in savings from 20% to 40% prior to any privatization decision.

While privatization is possible in the short term, it appears to be premature, given the fragmented nature of the function as well as the potential for significant efficiencies prior to any privatization decision.

TIMELINE FOR IMPLEMENTATION

Immediate implementation should result in short-term savings in 12-18 months. Total implementation will probably take two to four years.

ESTIMATED SAVINGS

Annual technology expenses are in the $300 million to $400 million range and industry experts indicate typical savings deriving from this kind of effort from 20% to 40%.

Revenue Collection

BACKGROUND

The State of New Jersey collects $14.8 billion in revenues annually. Over 50 separate units of government have a collection function. Changing collection techniques, as well as the need for sophisticated cash management skills, trends toward electronic collection, and the securitization of receivables, all impact on this critical function.

CURRENT SITUATION

Professional skills in the various collection units vary from highly sophisticated to nonexistent. Cash management practices vary, reducing revenue opportunities which reduces the state revenue potential by not maximizing the investment potential of taxes and fees.

Most units of government do not routinely maintain information on collection rates and receivable aging schedules, which is basic to any professional collection activity. The state does not presently package and sell aged receivables.

Electronic collection activities are just beginning to be undertaken in the state and will require increased expertise and capital.

CONCLUSIONS AND RECOMMENDATIONS

The consolidation of collection activities of over 50 units will offer significant opportunity to reduce costs based on efficiencies and competitive contracting opportunities. Consolidation and competitive contracting will bring to all revenue sources the benefit of professional cash management skills.

Professional collection and money management skills, if brought to all state collection units in a single focused collection unit, should substantially increase revenues. The increase in revenue collected will also increase investment return.

There is an opportunity for the state to package for sale aged, uncollected accounts receivables. The size of this opportunity is unknown, but perhaps significant. Many states and other governmental units are already using this approach.

With the assistance of this Commission, the Department of Treasury has issued a comprehensive RFP, requesting consulting assistance in a large-scale management and operational restructuring of revenue collection/debit recovery in the State of New Jersey.

The primary objective is to evaluate the current options and recommend an implementation plan for centralizing the function.