

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11229 SENATE LABOR & COMMERCE



Allied Charities of Alaska Association

Pulltab Vendors Plead for You to Stop HB169 and SB102

- HB169 and SB102 reduces by 20% the amount Vendors will receive for selling pulltabs for charities
- Vendors cannot afford to help charities raise money if Vendors' revenue is reduced by 20%
- Please do not put the Vendors out of the business of helping charities raise money

I am opposed to HB169 and SB102. Please do not put Vendors out of the business of raising money for Charities.

John L. Anderson
Print Name

(907) 835 4665
Phone Number

[Signature]
Sign Name

Waldorf
City

KCHU
Organization

Fax this sheet to the Committee (465-3871) the Governor (269-7461) and Gaming (269-6595)

The Trade Association for Alaska's Charitable Gaming Industry

5761 Silverado Way, Unit Q
Anchorage, Alaska 99518
Phone 907.677.1644 Fax 907.677.0644



Allied Charities of Alaska Association

Leave our Charities' Funds Alone

HB169 and SB102 Take 37% of our Charities' Funds Available to Help Those in Need

- HP169 and SB102 will take 37% of our Charities' funds that it used to help those in need *
- If the tax were in effect in 2001, the Government would have taken \$11,500,000 of the Charities' \$30,800,000 that the Charities had available to help those in need*
- Our Charities need all of their funds to do their job of helping those in need

I am opposed to HB169 and SB102. Please do not take 37% of the Charities' funds they need to help those in need

John L Anderson

Print Name

(907) 835-4281

Phone Number

John Anderson

Sign Name

Valdez

City

ACHA
Organization

Fax this sheet to the Committee (465-3871) the Governor (269-7461) and Gaming (269-6595)

*Based on 2001 data, the most recent year that data is available.

The Trade Association for Alaska's Charitable Gaming Industry

5761 Silverado Way, Unit Q
Anchorage, Alaska 99518
Phone 907.677.1644 Fax 907.677.0644

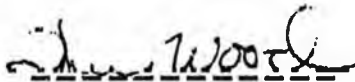
STOP HB169 AND SB102
IT IS UNFAIR FOR ANY

650% TAX INCREASE ON SUCH
SHORT NOTICE THAT THE
MO DO NOT INFORMED OR COMMITMENT
ON THE CHANGES.

THE TAX INCREASE WILL PUT
OPERATORS OUT OF BUSINESS
AND TAKE THE INCOME FROM
THE CHARITIES THEY NEED TO
OPERATE.

Thelma Wood

(907)755-2187 phone & fax



PO Box 401 Craig AK 99921

Win City Pull Tabs

Subject: Anchorage Daily News | Women charged in pull-tab scam

Date: Tue, 22 Apr 2003 13:29:34 -0800

From: Con Bunde <Senator_Con_Bunde@Legis.state.ak.us>

Organization: Alaska State Legislature

To: Jane Alberts <Jane_Alberts@legis.state.ak.us>

<http://www.adn.com/alaska/story/2994408p-3018681c.html>

adn.com
Anchorage Daily News

Alaska King Crab

▼ News

24-Hour News

Go to....

- Money
- Sports
- Outdoors
- Life
- Entertainment
- Obituaries
- Perfect World
- Video Clips
- Legislature
- Mike Doogan
- Opinion
- Letters to the Editor
- Voice of the Times
- Corrections
- Weather
- Newsletters
- Help
- Home

Search
in today's news

Search

- Previous days' news
- Advanced search
- Archives search

Editors' Picks
Read adn.com's best recent stories.

Classifieds

Today's ads
Search ads
Place an ad

Marketplace

Transportation
Employment
Real Estate

Services

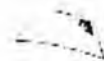
Restaurants
Directory
Alaska stores

Around Alaska

Summer camps
Wild City
Fishing Guide

Specials

Iditarod
Photo Galleries
Editors' Picks



Printer version



E-mail this story



Download story to PDA

ALASKA

women charged in pull-tab scam

KLAWOCK: The two used inside information to profit, federal prosecutors say.

By NICOLE TSONG
Anchorage Daily News
(Published: April 22, 2003)

Playing pull-tabs is supposed to be a gamble, but federal prosecutors say two Klawock women used inside information to turn the odds in their favor and win \$93,158 over one year.

Janine D. Harmon, 36, and Delores A. Peratrovich, 53, were charged by a federal grand jury last week with one count of conspiracy and three counts of mail fraud each.

Harmon was the manager of gaming operations for Klawock Cooperative Association, according to the indictment. She managed accounting records for pull-tab games and also was a dealer. Money from the games was used to fund the tribe's general operations.

Peratrovich had a similar role at the Klawock Liquor Store, managing pull-tab accounts and dealing pull tabs as the store's manager. Profits from the tabs went to the city of Klawock for education, public safety and heritage, the indictment says.

Klawock, which has about 850 residents, is on the west coast of Prince of Wales Island, 56 air miles west of Ketchikan.

Because of their jobs, both women were prohibited from playing pull-tabs at their respective organizations.

Pull-tabs are usually sold to customers for \$1 per ticket with a set number of winning tickets in every batch. A typical game has odds of about 86 percent, which means if someone bought all the tickets in a game, they would win 86

Top Ten Stories

See which stories other readers are sending to their friends.

Crossword

Play our interactive puzzle online.

ALASKA.com

Get information on travel, relocation and entertainment. The business directory allows you to locate stores and services statewide.

School News

Find your child's classroom in SchoolNews. Also, learn about Newspapers in Education.

Community News

Check our free Web sites for non-profit groups.



which means if someone bought all the tickets in a game, they would win 60 cents for every dollar wagered and lose 14 cents, the indictment says.

But Harmon and Peratrovich traded inside knowledge learned on the job about which games had sold most tickets but still had winning tickets left, unfairly increasing their odds of scoring money, the indictment charges.

"Playing these games with inside information is no longer 'gambling' because the player knows that if they buy all of the remaining tickets, their winnings are guaranteed to exceed their wager," the indictment says.

>From September 2000 to September 2001, Harmon won \$27,963 playing at the liquor store on games including Crazy 8's, Gold Digger and Iditarod, and Fountain of Loot.

On one day, she scored \$2,554, according to the indictment. Peratrovich won \$66,195 playing the games from the tribe, such as Hey Diddle Diddle, Gold Digger and I Love You Man. On her best day, she won \$3,030, the indictment said.

The mail fraud charges are based on the pair's ordering the pull-tabs through the mail, intending to cheat on the games, according to the indictment.

They face a maximum of five years in prison and a fine of \$250,000 for each count.

Federal prosecutors said the women have been summoned for arraignment May 29 in Ketchikan.

When reached at home in Klawock, Harmon said she had no comment. Peratrovich did not return a call asking for comment.

Reporter Nicole Tsong can be reached at ntsong@adn.com or 257-4450.

Department of Revenue – April 9, 2003
Proposed amendments to SB102

What would be the effect of a 25% tax on the ideal net on pull-tabs? As expected, without an adjustment by the industry to either the current prize payout or a reduction in expenses, the charitable organizations would not receive their statutory minimum of 30% of net proceeds. However, assuming the permit holders either lowered their prize payout or cut expenses, or both, the additional revenue to the state of a 25% tax on net vs. a 5% tax on gross would be the same — or perhaps even higher at 25% on net.

As for collecting the tax at the distributor level instead of from the permittees, there is a cash flow issue to consider. Currently the distributors collect the 3% tax on pull-tabs and remit it to the Department by the end of the succeeding month. Under that tax structure, assuming a game with 1,000 tickets and a prize payout of 78%, the permittee would have to pay an average of \$20 for the game and \$6.60 for the tax at the time they picked up the game. Under the proposed 25% tax scenario the cost to the permittee would be the \$20 for the game and taxes of \$55. The permittee would need to be prepared to spend \$75 to pick up a game vs. \$26.60 under the current law.

The initial concern is the upfront cash flow that the permittees would have to manage. One solution is not to carry as much inventory on hand and make smaller purchases at the time needed. This obviously would require better management.

One other concern is the amount of taxes that the distributors would have to collect and be responsible for payment to the state. On an average the 13 distributors would be responsible for over \$1 million each month, with a potential of doubling that during peak playing times. We currently bond operators for \$100,000, and it would seem a good business practice to require a bond for the distributors.

Bonding is becoming increasingly more difficult for operators to obtain. We could expect the same for distributors. The cost of a bond is usually about 10% of face. We would like to see a minimum of \$250,000 bond. Obviously, this will not be readily received by the industry.

**Licensing and Miscellaneous Fees
From 2001 Gaming Annual Report**

<u>Type</u>	<u>Number Issued in 2001</u>	<u>Paid By</u>	<u>Annual Fees</u>	<u>Amount</u>
Permit	1,268	Permitee	\$20 - \$100	\$71,963
Multiple-Beneficiary Permit	14	Applicant (permitee co-op)	\$100	1,400
Vendor Registration 282 vendors with approximately 350 permittees	350	Permitee	\$50 per location, paid by permittee	17,500
Operators	26	Operator	\$500	13,000
Distributors	13	Distributor	\$1,000 Annually	13,000
Manufacturers	10	Manufacturer	\$2,500 Annually	25,000
				<u>\$141,863</u>

*

Breakdown of Fees and Taxes in Annual Report

3% Tax on Pull-Tabs	FY -02 \$2,045,124
1% Tax on Permittees' Gaming Profits	325,218
Permit and License Fees	<u>141,863</u> *
	<u>\$2,512,205</u>

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110400
JUNEAU, ALASKA 99811-0400
TELEPHONE: (907) 465-2300
FACSIMILE: (907) 465-2389

April 8, 2003

The Honorable Con Bunde
Chair, Senate Labor and Commerce Committee
Alaska State Legislature
State Capitol, Room 506
Juneau, Alaska

Dear Senator Bunde:

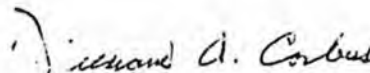
I am writing to ask that you please bring our proposed amendments to SB102, the governor's charitable gaming legislation, before your committee at the earliest possible date.

This legislation is an essential piece of Governor Murkowski's plan to start the state toward a sound financial future. The \$18.5 million in additional revenue from this measure in Fiscal 2004 and the \$20 million in subsequent fiscal years would help in our efforts to continue providing essential public services.

I have enclosed a chart that shows the division of pull-tab proceeds in Alaska under current law, the governor's original proposal for a 5% tax on gross sales, and the amended proposal for an 8% tax on gross sales with a 68% limit on prizes. The prize limit is designed to ensure that charities do not have to absorb the cost of the tax increase. In fact, they could receive more money than under the existing law. The state currently receives about \$2 million a year from taxes on pull-tab games, and the governor's amended proposal would raise that to a total of more than \$22 million in a full fiscal year.

Please let me know if you have any questions about this legislation. We are ready to assist you in any way possible to move this important legislation to passage.

Sincerely,



William A. Corbus
Commissioner

c: Mike Tibbies

AMENDMENT

OFFERED IN THE SENATE

BY

LABOR AND COMMERCE COMMITTEE

TO: CSSB 102(L&C) (23-GS1131\ND)

1 Page 2, line 10, following "tax of":

2 Delete "five"

3 Insert "eight"

4

5 Page 2, line 16, following "less than":

6 Delete "28"

7 Insert "32"

Revenues from Charitable Gaming - Based on \$274 million* total gross receipts from pull tabs

	Current Law		Governor's Original Proposal		Governor's Amd Proposal	
	Split	Percent	Split	Percent	Split	Percent
Total gross receipts	\$274.0		\$274.0		\$274.0	
Total prizes	\$213.7	78%	\$197.3	72%	\$186.3	68%
Total expenses	\$34.0	12.5%	\$34.0	12.5%	\$34.0	12.5%
Net profit to charities	\$23.3	8.5%	\$28.7	10.5%	\$31.3	11.5%
Taxes, fees to state	\$2.0	0.8%	\$14.0	5%	\$22.4	8%

*Total gross receipts from charitable gaming is \$357 million

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB102(STA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affecter: Revenue
 Title Charitable gaming revenue BRU Revenue Operations
 Component Tax Division
 Sponsor Rules Committee
 Requester Senate Finance Committee Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	125.0	125.0	125.0	125.0	125.0	125.0
Travel	15.0	15.0	15.0	15.0	15.0	15.0
Contractual	22.0	12.0	12.0	12.0	12.0	12.0
Supplies	3.0	3.0	3.0	3.0	3.0	3.0
Equipment	15.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	180.0	155.0	155.0	155.0	155.0	155.0

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

CHANGE IN REVENUES ()	9,000.0	10,000.0	10,000.0	10,000.0	10,000.0	10,000.0
-------------------------------	----------------	-----------------	-----------------	-----------------	-----------------	-----------------

FUND SOURCE (Thousands of Dollars)

10C2 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	180.0	155.0	155.0	155.0	155.0	155.0
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	180.0	155.0	155.0	155.0	155.0	155.0

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would increase the state's charitable gaming tax rate from 3 percent of net on pull-tabs (actual gross less prizes) to 15 percent of ideal net for pull-tabs (the amount that would be left after prizes assuming all of the pull-tabs in a series are sold). This marks the first change in tax rates since 1988. This legislation would not change the state tax rate on raffles, bingo and other charitable gaming.

The tax increase would take effect July 1, 2003. The Department of Revenue estimates the increase will generate \$10 million in additional state revenue for a full fiscal year, with approximately \$9 million in Fiscal 2004 because the state would receive the higher revenues for 11 months in the fiscal year. (Taxes are paid one month after sales for distributors on pull-tab games.)

See attached page for more information on the revenue and program costs.

Prepared by: Jeff Prather and Larry Meyers Phone 465-3410
 Division Tax Division Date/Time 5/6/03 6:22 PM
 Approved by: Larry Persily, Deputy Commissioner Date 5/6/2003
 Agency Department of Revenue

**Department of Revenue
Charitable Gaming Revenue
CSSB102(STA)**

Page 2 of 2

Operating Expenditures

The Department of Revenue is requesting general fund program receipts to cover the cost of one Revenue Auditor III position and an Investigator III position. With such a large increase in taxes due the state (an estimated \$10 million per year), the Department anticipates the need to strenuously verify the ideal net that the tax increase is based upon. A lack of sufficient staff to verify, audit and enforce the state's higher charitable gaming tax rate would exacerbate an already serious shortage in the state's enforcement effort.

The projected annual salary cost for these new positions totals \$125,000.

The department is also requesting one-time Fiscal 2004 funding of \$15,000 for equipment and \$10,000 for start-up contractual costs.

SB

1 1 1

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB 111(L&C)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: Public Construction Project Requirements BRU: Labor Standards and Safety
 Component: Wage and Hour
 Sponsor: Senate Rules
 Requester: Senate L&C Component Number: 345

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	44.7	44.7	44.7	44.7	44.7	44.7
Travel						
Contractual	7.2	7.2	7.2	7.2	7.2	7.2
Supplies	2.0	0.2	0.2	0.2	0.2	0.2
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	53.9	52.1	52.1	52.1	52.1	52.1

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

CHANGE IN REVENUES (Gen Fund 1004)	2,500.0	2,500.0	2,500.0	2,500.0	2,500.0	2,500.0
--	----------------	----------------	----------------	----------------	----------------	----------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	53.9	52.1	52.1	52.1	52.1	52.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	53.9	52.1	52.1	52.1	52.1	52.1

Estimate of any current year (FY2003) cost: None

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would amend AS 36.05.040 to require bi-weekly rather than weekly submission of certified payrolls to the Department of Labor and Workforce Development (DLWD), and the addition of a new section under AS 36.05.045 to institute a reporting requirement to DLWD at the beginning and end of a project. In addition, DLWD proposes to institute a new fee at the beginning of a project.

(Continued on second page.)

Prepared by: Grey Mitchell, Director Phone: 465-4855
 Division: Labor Standards & Safety Date/Time: 4/16/03 8:10 AM
 Approved by: Greg O'Clary, Commissioner Date: 04/16/03
 Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSSB 111(L&C)

ANALYSIS: (continued)

Under the new plan, contractors will submit an affidavit of compliance at the beginning of a project certifying intent to comply with prevailing wage laws. Submission of the affidavit of compliance will include a payment of one percent of the total contract value, up to a payment cap of \$5,000. Projects of less than \$25,000 will require filing of the affidavit, but are exempt from the payment of the fee. The contractor will continue the current practice of submitting payrolls to contracting agencies where required.

The department will be required to develop an electronic payroll filing system to be available to contractors by July 2004.

Based on a five-year average, with an estimated 1,000 projects opening per year and with an average contract value of approximately \$250,000, revenue is projected to be approximately \$2,500,000 in the first year. Succeeding years will increase or decrease with the number and value of public contracts let.

The department requests a new position: an Accounting Technician I to receive and account for the fees and manage the affidavits and certified payrolls in the Anchorage office.

The department proposes to begin collecting the fees July 1, 2003.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



Alaska State Legislature

Please enter into the record my testimony to the Labor and Commerce Committee
committee name

Committee on SB-111 Date March 26, 2003
bill # / subject

We oppose SB-111.

This bill eliminates the reporting requirements of payroll information by contractors and subcontractors performing work on public contracts during construction.

This bill further encumbers the Wage and Hour Division by requiring them to seek information that had been directly provided to their office by employers. They will have to seek this information from many different contracting agencies.

This legislation creates the opportunity to reward those who would disregard Title 36 statutes, to the detriment of honest contractors. The oversight of Title 36 statutes would be effectively eliminated during the construction process, which is when violations actually occur. The elimination of the reporting requirements invites violations.

Please maintain the integrity of our public process and reject SB-111.

Signed: x *R. L. Berdy* Robert Buch
Testifier

UA Local 367 Plumbers and Pipefitters
Representing (optional)

610 W. 54th, Anchorage, AK 99518
Address

(907) 562-2810
Phone number

23-GS1119\H
Craver
4/15/03

CS FOR SENATE BILL NO. 111()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the submission of payroll information by contractors and
2 subcontractors performing work on a public construction contract; requiring a notice of
3 work by employers on public construction contracts; providing for the withholding of
4 final payment for public construction contracts; and providing for an effective date."

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

6 * Section 1. AS 36.05.040 is amended to read:

7 **Sec. 36.05.040. Filing schedule of employees, wages paid, and other**
8 **information.** All contractors or subcontractors who perform work on a public
9 construction contract for the state or for a political subdivision of the state shall, before
10 the Friday of every second [EACH] week, file with the Department of Labor and
11 Workforce Development a sworn affidavit for the previous reporting period
12 [WEEK], setting out in detail the number of persons employed, wages paid, job
13 classification of each employee, hours worked each day and week, and other
14 information on a form provided by [THAT] the Department of Labor and Workforce

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Development [REQUIRES].

* Sec. 2. AS 36.05 is amended by adding a new section to read:

Sec. 36.05.045. Notice of work and completion; withholding of payment.

(a) Before commencing work on a public construction contract, the person entering into the contract with a contracting agency shall designate a primary contractor for purposes of this section. Before work commences, the primary contractor shall file a notice of work with the Department of Labor and Workforce Development. The notice of work must list work to be performed under the public construction contract by each contractor who will perform any portion of work on the contract and the contract price being paid to each contractor. The primary contractor shall pay all filing fees for each contractor performing work on the contract, including a filing fee based on the contract price being paid for work performed by the primary contractor's employees. The filing fee payable shall be the sum of all fees calculated for each contractor. The filing fee shall be one percent of each contractor's contract price. The total filing fee payable by the primary contractor under this subsection may not exceed \$5,000. There is no fee for a contract under which the total amount payable by the contracting agency is less than \$25,000. In this subsection, "contractor" means an employer who is using employees to perform work on the public construction contract under the contract or a subcontract.

(b) Upon completion of all work on the public construction contract, the primary contractor shall file with the Department of Labor and Workforce Development a notice of completion together with payment of any additional filing fees owed due to increased contract amounts. Within 30 days after the department's receipt of the primary contractor's notice of completion, the department shall inform the contracting agency of the amount, if any, to be withheld from the final payment.

(c) A contracting agency

(1) may release final payment on a public construction contract to the extent that the agency has received verification from the Department of Labor and Workforce Development that

(A) the primary contractor has complied with (a) and (b) of this section;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

(B) the Department of Labor and Workforce Development is not conducting an investigation under this title; and

(C) the Department of Labor and Workforce Development has not issued a notice of a violation of this chapter to the primary contractor or any other contractors working on the public construction contract; and

(2) shall withhold from the final payment an amount sufficient to pay the department's estimate of what may be needed to compensate the employees of any contractors under investigation on this construction contract, and any unpaid filing fees.

(d) The notice and filing fee required under (a) of this section may be filed after work has begun if

(1) the public construction contract is for work undertaken in immediate response to an emergency; and

(2) the notice and fees are filed not later than 14 days after the work has begun.

(e) A false statement made on a notice required by this section is punishable under AS 11.56.210.

* Sec. 3. AS 36.05 is amended by adding a new section to read:

Sec. 36.05.900. Definitions. In this chapter,

(1) "contracting agency" means the state or a political subdivision of the state that has entered into a public construction contract with a contractor;

(2) "public construction" does not include alterations or repairs of less than \$100,000 undertaken by tenants of a building owned or controlled by the state for government or public use after the initial construction or acquisition of the building by the state, notwithstanding AS 36.95.010.

* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to read:

CURRENT PUBLIC CONSTRUCTION CONTRACTS. Notwithstanding AS 36.05.045, added by sec. 2 of this Act, a contractor or subcontractor that began work on a public construction contract before July 1, 2003, but has not completed the work before July 1, 2003, shall file a notice of work with the Department of Labor and Workforce

1 Development. The contractor or subcontractor shall file the notice not later than 30 days after
2 the Department of Labor and Workforce Development provides the contractor or
3 subcontractor with a copy of the notice form. The contractor or subcontractor is not required
4 to pay a fee for filing.

5 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 ONLINE PAYROLL REPORTING. Not later than July 1, 2004, the Department of
8 Labor and Workforce Development shall provide for filing of payroll reports as required in
9 AS 36.05.040, amended by sec. 1 of this Act, by secure online electronic filing.

10 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 TRANSITIONAL PROVISIONS: REGULATIONS. Notwithstanding sec. 8 of this
13 Act, the Department of Labor and Workforce Development may proceed to adopt regulations
14 necessary to implement the changes made by this Act. The regulations take effect under
15 AS 44.62 (Administrative Procedure Act), but not before the effective date of the relevant
16 statutory change.

17 * Sec. 7. Sections 4 and 6 of this Act take effect immediately under AS 01.10.070(c).

18 * Sec. 8. Except as provided in sec. 7 of this Act, this Act takes effect July 1, 2003.

RE: Senate Bill 111

Good Afternoon esteemed members of the Senate Labor & Commerce committee:

My name is Vince Beltrami, I am a resident of South Anchorage and one of Senator Bunde's constituents. I also serve as President of the Anchorage Building & Construction Trades Council. I am not sure if this correspondence will get to you too late or not. I hope not.

I would like to start off by saying that frankly I do not think whoever's brain child this bill was seems to have thought this thing all the way through. It is bad legislation. The Governor has been preaching about tightening the fiscal belt and despite the analysis in the fiscal notes attached to this bill which makes claims to the contrary, this bill will cost the Department of Labor money. If you let those certified payrolls go out the door the department will be chasing them all over the state to the myriad contracting agencies instead of having at their fingertips all the information necessary, as they presently do, to efficiently and expeditiously process a certified payroll violation claim. And it will just about eradicate enforcement of prevailing wage violations.

The net effect will be to cost all the contracting agencies lots of unnecessary resources to handle their own certified payrolls. It will eventually become a case of the fox watching the hen house because the agencies are not going to want to invest the time and money necessary to collect and monitor the payrolls. The agencies want their projects done, they don't want holdups or things like pesky wage violations to slow down their projects so the agencies will have no incentive to embrace this. The contractors will eventually not have a level playing field and Alaskan residents will suffer erosion of wage standards and exposure to unsafe installations as a result.

The Prevailing Wage program ensures that all contractors working on public construction projects pay the same costs for labor, thereby preventing an unfair competitive advantage based on the use of cheap imported labor.

The Title 36 program is modeled after the federal Davis-Bacon Act which was enacted to protect the employees of contractors performing public works construction from substandard earnings, and to preserve local wage standards.

- The Governor's reasoning for introducing this bill is flawed. He cites a double filing requirement, stating that contractors are required to file payroll records with both the contracting agency and DOL. My understanding is that this is not accurate. This may be true under certain limited circumstances dealing with Federally funded projects and state agencies that may be involved with projects that have federal funds in them. However, for nearly every agency affected under

Title 36, contractors need only file certified payrolls with the Wage & Hour Department and not the contracting agency.

- The governor stated that eliminating this filing requirement would be an administrative savings to the department. On the contrary, it would only eliminate one wage & hour technician position, a range 12. A position which costs the state less than \$40K per year. And a position which has much greater responsibility than just filing certified payrolls as the introductory paragraph of the bill would have you believe. At the same time it would create additional workload for wage & hour investigators and ultimately end up costing the department more money.

- This bill would actually cause a drain on DOL wage & hour investigators time.

If I may offer a Simple Example: lets say a worker walks in with a complaint. He has worked for Contractor X on a number of jobs. Presently, the wage & hour investigator can access any of the certified payrolls for Contractor X on file with the Department, irrespective of who the contracting agency is. The investigator can check to see if this contractor has an approved fringe benefit plan and can quickly ascertain if there has been a violation. Conversely, if this bill were to pass, the wage & hour investigator would have to find out who the contracting agencies are for the various jobs that Contractor X is performing, contact each agency, request the payrolls from that agency and wait for them, then try to determine if the contracting agency knows whether the contractor has an approved fringe benefit plan and then, only after much wasted time and financial resources from DOL and the contracting agency, finally make a determination of whether a violation has occurred or not.

- Commissioner O'Claray has stated that Title 36 enforcement has been ineffective to non-existent. I would agree. But only in so much as the Department has not exercised its authority as outlined in the Title 36 statutes over the years. Take, for example, Sec. 36.05.060. of the Title 36 booklet. This section states that a contractor who violates this chapter is guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than \$100 nor more than \$1000, or by imprisonment for not less than 10 days nor more than 90 days, or by both. There are several other fine and penalty provisions in the statutes. The Title 36 statutes do have teeth in them, its only a matter of whether the Department Chief wants to bite or not.
- As I earlier mentioned it will be a Burden on contracting agencies

It **will** drain their resources. All contracting agencies in the state will have to create a system for handling certified payrolls, will have to ascertain whether contractors have fringe benefit plans or not which will require assigning or hiring employees to handle these functions, set up databases, and be able to comply with Requests for Information from the general public within 10 days as required by law, and in general take on more liability. And my guess is more than likely this will also cause a revamping of audit requirements for each contracting agency.

- Fringe benefit plans

Currently under 8AAC30.025 employers must remit contributions to union trusts, approved private pension plans, or other approved fringe benefit plans. I believe presently it is the job of wage & hour investigators to either approve or register approved plans. This function may also be passed on to the contracting agencies, who would have to assure that employers have approved plans and are only making deductions which would be allowable under the circumstances. An example of yet another burden for the contracting agencies.

- Additionally, the wage & hour tech position is much more than just a filing position. This position is the single point of contact for all questions from contractors to employees to other concerned parties like myself when it comes to understanding filing requirements. What expert will the employers turn to about advice on how to comply.
- One part of the proposal does have merit however. I believe that if the proposed fee structure were implemented, and at least a portion of those funds (estimated at \$1.15 million in annual revenue) ear marked for Title 36 enforcement, we could have a more effective program, perhaps hire another wage and hour technician or two plus a couple of enforcement officers statewide to more closely monitor this program, ensuing that the stated objectives of the prevailing wage program are achieved, that all contractors working on public construction projects pay the same costs for labor, thereby preventing an unfair competitive advantage based on the use of cheap imported labor, thus further ensuring safe, professional construction installations in the state of Alaska.

In summary, this bill is irresponsible and not well thought out. It will be a burden on contracting agencies which will translate into an even more lax enforcement situation which will ultimately cost contracting agencies, the DOL, and the public at large a great expense and create a disservice to the working people of Alaska, your constituents. For these reasons I oppose HB155 in its present form and respectfully request that you consider killing this bill in its present form.

Sincerely,

Vince Beltrami

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 111
(S) Publish Date: 3/6/03

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: An Act relating to the submission of payroll information by contractors and subcontractors BRU: Labor Standards and Safety
Component: Wage and Hour
Sponsor: _____
Requester: Governor Component Number: 345

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES (Gen Fund 1004)	1,150.0	1,150.0	1,150.0	1,150.0	1,150.0	1,150.0
--	----------------	----------------	----------------	----------------	----------------	----------------

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: None

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would amend AS 36.05.040 to require weekly submission of certified payrolls to the contracting agency rather than to DLWD, and we propose the addition of a new section under AS 36.05.045 to institute a reporting requirement to DLWD at the beginning and end of a project only. In addition, DLWD proposes to institute two new fees. This proposal is modeled after a similar plan in the State of Washington.

(Continued on second page.)

Prepared by: Hali Denton, Acting Director Phone: 465-4855
Division: Labor Standards & Safety Date/Time: 3/5/03 10:17 AM
Approved by: Greg O'Claray, Commissioner Date: 03/05/03
Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. SB 111 FN #1

ANALYSIS: (continued)

Instead of the weekly submission of certified payrolls to the department, contractors will submit an affidavit of compliance at the beginning and at the end of a project certifying compliance with prevailing wage laws. Submission of each of these affidavits will include the payment of a \$100.00 fee. The contractor will continue the current practice of submitting payrolls to the contracting agency.

This will eliminate the duplicate volume of paper that is currently processed through the DLWD certified payroll program and also provided to the contracting agency. It will also allow the elimination of the Wage and Hour technician position that currently files the payrolls. In the event of a prevailing wage complaint, the department will obtain the certified payrolls from the contracting agency for audit purposes. It is anticipated that enforcement activity levels will remain the same.

Based on our estimate of 2,300 projects with an average of 5 contractors per project, revenue is projected to be about \$1,150,000. Our proposal is to begin collecting the fees July 1, 2003.

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

March 5, 2003

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 107
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the submission of certified payroll records by contractors and subcontractors performing work on public construction projects.

Currently, under AS 36.05.040, contractors and subcontractors performing work on public construction contracts are required to file certified payroll records each Friday with the Department of Labor and Workforce Development. The Department of Labor and Workforce Development recognizes that many contracting agencies require contractors and subcontractors to file payroll records with them as well. This bill would reduce the double filing requirement on contractors and their subcontractors to file certified payroll records.

In lieu of filing certified payroll records with the Department of Labor and Workforce Development, each contractor and subcontractor would be required to file a Notice of Intent to Pay Prevailing Wages with the Department of Labor and Workforce Development along with a \$100 fee. The Notice of Intent to Pay Prevailing Wages would provide identifying information about the project, the name of the contractor or subcontractor, and a statement that the contractor or subcontractor will comply with the Little Davis Bacon Act. Furthermore, when the contractor or subcontractor completes its work on the public construction project, an Affidavit of Wages Paid stating that the contractor or subcontractor has completed work on the project and has complied with the requirements of the Little Davis Bacon Act will be required.

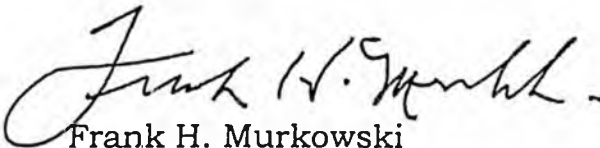
GOVERNOR'S TRANSMITTAL LETTER

The Honorable Gene Therriault
March 5, 2003
Page 2

Eliminating this weekly filing requirement with the Department of Labor and Workforce Development and requiring the new fees would be an administrative savings to the department as well as generating an annual revenue of \$1.15 million.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frank H. Murkowski".

Frank H. Murkowski
Governor

Briefing Paper – SB 111

Alaska Department of Labor of Workforce Development

This bill will alter the language Title 36 of Alaska Statutes so that contractors on public works projects are no longer required to submit weekly-certified payrolls (CPR) to the Department of Labor and Workforce Development (DOL).

In place of the CPR, all contractors or subcontractors on a project must file with the DOL a **Notice of Intent** to perform public work, along with a \$100.00 fee. The notice would be on a form provided by the department and include identifying information about the project and the contractor and a statement that the contractor fully understands his/her responsibilities to workers under Title 36 and will comply with its requirements. The **Notice of Intent** will inform the department that each contractor is aware of the proper prevailing rates of pay.

At the end of their portion of the project each contractor or subcontractor will file with DOL an **Affidavit of Compliance**, on a form provided by the department, along with a \$100.00 fee. The affidavit will state that the contractor has completed work on the project and have complied with the requirements of Title 36 with regard to payment of proper prevailing wages and residence preference. The Affidavit of Compliance will provide an instrument for closure on projects and a sworn attestation of compliance with the Act.

The advantage to contractors is that they will no longer have to file the CPR's weekly with the department. In most cases where federal money is involved, CPR's are already filed with the contracting agency. This will eliminate the duplication, yet the payrolls will be accessible for audit purposes in the event of a complaint or investigation. The contracting agency will not be required to audit the payrolls, although the Department of Transportation and Public Facilities (DOTPF) already performed certain tasks to satisfy federal grants on most of their projects.

Presently, many contracting agencies will not make final payment on a project until they have clearance from DOL. Under this plan the department will check its files for the final affidavits. This will make the process of issuing a clearance much quicker and the final payment to get to the contractor sooner.

This bill will enable the department to put its resources in the field where they are needed instead of tying them to an office filing CPR's.

Opposition



ALASKA

March 21, 2003

Senator Con Bunde, Chairman
Senate Labor & Commerce Committee
Room 506 State Capitol
Juneau, Alaska 99801-1182

Subject: Senate Bill 111

Dear Senator Bunde,

The Leadership Council of the National Federation of Independent Business voted recently to oppose Senate Bill 111 and the companion legislation, House Bill 155.

The bill requires each contractor and subcontractor to file a notice of intent to pay prevailing wages to the Department of Labor and pay a \$100 fee prior to beginning work on a public construction project. An affidavit of wages paid must also be filed with the department upon completion of the project with another \$100 fee due at that time. This is particularly unfair to small specialty contractors who work on numerous jobs with many taking a few days or less to complete.

The Department of Labor has stated that the bill is an advantage to the contractor because they will no longer be required to submit weekly-certified payrolls to the Department of Labor. However the bill requires that the contractor file a certified payroll each week with the contracting agency on a form provided by the Department of Labor.

The bill restricts a contracting agency from release of final payment until it has received verification from the Department of Labor that the contractor and all subcontractors have:

- 1) paid their fees,
- 2) that the Department of Labor is not conducting an investigation regarding payment of prevailing wages
- 3) and that the department has not issued a notice of violation to the contractor or a subcontractor.

This appears that no contractor could be paid if the any of the contractors were in violation or being investigated for violation of this chapter.

Attached to this letter are six letters from small businesses regarding House Bill 155, the companion bill to Senate Bill 111.

Sincerely,

Thyes Shaub, NFIB Lobbyist



ALASKA

March 21, 2003

Senator Ben Stevens, Chairman
Senate Labor & Commerce Committee
Room 119 State Capitol
Juneau, Alaska 99801-1182

Subject: Senate Bill 111

Dear Senator Stevens,

The Leadership Council of the National Federation of Independent Business voted recently to oppose Senate Bill 111 and the companion legislation, House Bill 155.

The bill requires each contractor and subcontractor to file a notice of intent to pay prevailing wages to the Department of Labor and pay a \$100 fee prior to beginning work on a public construction project. An affidavit of wages paid must also be filed with the department upon completion of the project with another \$100 fee due at that time. This is particularly unfair to small specialty contractors who work on numerous jobs with many taking a few days or less to complete.

The Department of Labor has stated that the bill is an advantage to the contractor because they will no longer be required to submit weekly-certified payrolls to the Department of Labor. However the bill requires that the contractor file a certified payroll each week with the contracting agency on a form provided by the Department of Labor.

The bill restricts a contracting agency from release of final payment until it has received verification from the Department of Labor that the contractor and all subcontractors have:

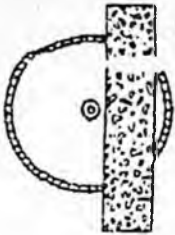
- 1) paid their fees,
- 2) that the Department of Labor is not conducting an investigation regarding payment of prevailing wages
- 3) and that the department has not issued a notice of violation to the contractor or a subcontractor.

This appears that no contractor could be paid if the any of the contractors were in violation or being investigated for violation of this chapter.

Attached to this letter are six letters from small businesses regarding House Bill 155, the companion bill to Senate Bill 111.

Sincerely,

Thyes Shaub, NFIB Lobbyist



**ALASKA
CONCRETE
SAWING, INC.**

6831 DeBarr Road
Anchorage, AK 99504
Phone: (907) 338-3300
FAX: (907) 338-7162

FAX TRANSMITTAL

DATE: 3/14/03 TO: THYES SHAUB

ATTN: _____ REC'V FAX # 463-5128

RE: HB # 155

PAGE 1 OF 1

MESSAGE _____

WE ARE FREQUENTLY ON THESE JOBS
FOR LESS THAN 4 HRS!
THESE FEES WILL BE CHARGED REGARDLESS
OF PROJECT SIZE

DEFEAT HB155



TAM CONSTRUCTION, INC.

General Contractor

10200 Nigh Road

P.O. Box 111186
Anchorage, AK 99511-1186

Phone (907) 344-4581

FAX (907) 349-4731

Thursday, March 13, 2003

Representative Tom Anderson
Room 432
State Capitol
Juneau AK 99801-1182

RE: HB155
Dispatching: Faxed to 907-465-2418

CC :

Post-It* Fax Note	7671	Date	Pages
To	Thyes Shaub	From	K. Eaton
Co./Dept	NFIB	Co	
Phone #		Phone #	
Fax #	463-5128	Fax #	

Dear Representative Anderson,

I oppose HB155.

- DOL states they will save money by eliminating the technician position but the cost to the taxpayers is increased many times over by requiring each contracting agency to establish a program and then hire a technician. Furthermore, who will then process the filed notices and provide the verifications to the Contracting Agencies?
- The fees are especially harsh on small specialty contractors who spend only a few days at each jobsite. The result must be a sharp increase in price for their work or they will soon be out of business. This increase will be passed back to the State as part of the construction contract price. Where is the savings in that?
- RE: Sec. 2. (c) You can not reasonably withhold funds from the Contractor and all subcontractors because one company is not in compliance. It is not justice when all must pay for the crime of one.

In the DOL Analysis it is stated that "This will eliminate the duplicate volume of paper that is currently processed". If they want to save money why don't they just eliminate the requirements that create the "duplicate volume of paper".

Please oppose HB155.

Sincerely,

K. A. Eaton, Sec Treas

Kathleen A. Eaton,
Sec.-Treas.

CC: Labor & Commerce Committee Members

"Specializing in underground construction and earth work."

Post-it [®] Fax Note	7671	Date	03-13	# of pages	1
To	THRE	From	CHARITY		
Co / Dep:	HY	Co.			
Phone #					
Fax #					

Key Bookkeeping
Charity A. Seslar
8800 Glacier Hwy, Ste 224
Juneau, AK 99801
Ph: (907)789-0899
Fx: (907)789-1208
E-mail: kevbook@aol.com

Representative Anderson
State Capitol
Juneau, AK

RE: House Bill #155

March 13, 2003

Dear Mr. Anderson,

The whole theory behind certified payroll reporting needs a good hard look, and in my opinion should be eliminated entirely. The mere fact that the reporting is required to begin with puts undue burden upon the employer. I can't IMAGINE attaching fees along with it.

Currently, I have only one certified payroll client. This client has on average, at any given time has at least 6 certified jobs active at the same time. Although generally, he and his one employee may work on only one or two jobs per week, we are STILL obligated to file weekly ZERO reports for the jobs with NO activity. I have one job that I've been filing zero reports now for months. Some jobs are short term, perhaps a month, from start to completion, barely leaving time to even GATHER the DOL job number from the state. Whether my client has activity on a job, or not, he is paying for my time to file these reports.

If I were convinced that any of this busy work-paper shuffling even made a difference in the lives of the laborers that it is intended to protect, I might have a different attitude on the subject. But, to my knowledge, these reports are not even being reviewed in a timely matter (if at all), by DOL.

The irony to all of this is that if an employer were being dishonest and chose to break the wage and hours laws, there is no other reconciliation in place to cross check with any other payroll records that the company maintains. I wonder if the \$200.00 fee could even begin to cover the costs of clearing up the

current reporting backlog, let alone improving upon it. The whole thing is entirely meaningless.

I would also imagine that if an employee was not being paid the correct prevailing wage under AK State law, the DOL would be the FIRST to hear about it, DIRECT FROM THE EMPLOYEE. The laborers out there are far smarter that they're being given credit for.

I've worked closely with the DOL (mainly the unemployment tax division) for seven years, and have found them to be the most helpful department of ALL of the government agencies. Let them focus on other issues that truly matter, and eliminate the busy work that serves absolutely no one.

Thank you for your time.

Sincerely,



Charity A Seslar
Owner, Key Bookkeeping

KC
CORPORATION
GENERAL CONTRACTORS

2964 Commercial Drive
Anchorage, AK 99501

(907) 258-2425 Fax (907) 278-8016

March 13, 2003

Representative Tom Anderson
State Capital
Juneau, AK

Fax 907-465-2428

Re: Opposition to House Bill # 155

Mr. Anderson:

As a small contractor who is already scrambling to keep up with costs I find it incredible that the state is considering adding a \$200.00 per contractor fee for the submission of payroll information to DOL. The average construction project probably has four to five subcontractors plus the general contractor. You are asking us to add \$1200.00 to the cost of each public contract awarded plus whatever additional cost we might incur, conservatively \$50.00 per contractor involved, for a total of \$1500.00. A very large contract with many tiers of subcontractors could run ten times that amount. To add this cost and drive up the cost of public contracts at a time when the State is looking everywhere for ways to save money makes no sense. This plus the huge administrative burden you place on the small contractor is not right.

I strongly object to any consideration of HB 155!

Sincerely
K-C CORPORATION

Byron D. Kohfield
President



March 13, 2003

CONSOLIDATED ENTERPRISES, INC.

533 E. 91ST AVENUE • ANCHORAGE, ALASKA 99518-3145
TELEPHONE (907) 344-4567 • FAX (907) 349-6390

Re: House Bill No. 155

Dear Thyes Shaub:

This letter is to inform you of our objection of House Bill No. 155.

It is in our opinion that AS 36.05.040, in its amended verbage is not feasible or reasonable to the general contractor, subcontractor, or contracting agency for the following reasons:

1. Each specific contracting agency will not be uniform and consistent in their knowledge or application of the certified payroll requirements. What is acceptable procedure to one agency may not be to another.
2. Each specific contracting agency is not equipped to handle this paperwork burden. At this time, there are contracting agencies that do not even require the certified payroll form be sent to them, as they can get an accurate clearancce from the Dcpartement of Labor.
3. Eliminating one Wage and Hour technician that is filing the certified payrolls is a mute point. The Department of Labor will surely need help in filing affidavits and collecting fees from the proposed AS 36.05.045.
4. Each contracting agency will need to hire additional help to handle the additional paperwork burden. This cost will surely be passed down to the taxpayer.

This house bill puts too much authority and power in the hands of the contracting agency. Will each contracting agency then have the power to fine contractors and subcontractors for not filing timely certified payroll forms? Where will the fine line of the contracting agencies power to collect the certified forms and their power to cnforce their quality be drawn?

The proposed AS 36.05.045 is outrageous! Requiring that a contractor pay \$100 00 for their *intent* to comply with legal statutes is not acceptable. Where will this stop? Shall we then have to pay for our *intent* to contribute fringe benefits to the appropriate trust, as required in AAC 30.025?

If that is not enough, AS 36.05.045, as proposed, will then require contractors to pay for an affidavit stating they *did* comply with the law, and pay yet another \$100.00. Only then, will we be able to collect our final payment on a project.

It is our belief that there are problems with the Department of Labor's paperwork burden. We do not believe that this House Bill is conducive to solving that problem.

We respectfully request that you do not support this bill

Sincerely,

CONSOLIDATED ENTERPRISES, INC.

Jody Embly
Treasurer

Fred Lind
President

Alpine General Contractors, Inc.

P.O. Box 200985
Anchorage, Alaska 99520

(907) 522-2100
FAX 522-2111

March 13, 2003

Representative Tom Anderson
Fax 465-2418

Re: Opposition to House Bill #155

Mr. Anderson,

We object strongly to HB155 for several reasons.

#1 - The additional \$200.00 fees are going to be charged back to the owners of the projects - who are all public entities subsidized by our taxes, making those projects cost more. Actually most companies will probably charge back more than \$200 because of the extra paperwork & time involved in filing.

#2 - The fees are to be charged regardless of the size of the contract or subcontract - We are frequently on multi million jobs where we do under \$2,000.00 or even under \$1,000.00 worth of work.

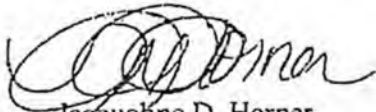
#3 - Each of the contracting agencies are going to be forced to hire more personnel to maintain the certified payroll records, now the costs have risen again for the project.

#4 - Payment for completed work is going to be delayed further while DOL makes sure we've complied, this is not required by the present system as they have the records.

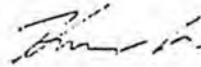
#5 - The additional \$200.00 fees - According to the DOL analysis you will be eliminating a Wage & Hour Technician - however now you'll have to have someone call & verify to the contracting agencies that the contractors have complied - you haven't really incurred new costs nor have you cut personnel.

Please do not support this bill.

Sincerely,

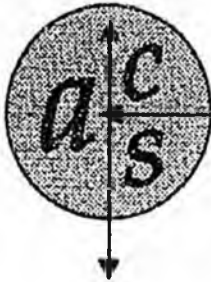


Jacqueline D. Horner
Secretary/Treasurer



Harold L. Horner
President

CC: Labor & Commerce Committee Members
Thyes Shaub, NFIB Ak State Director



alaska
construction surveys

(907) 344-5505
(907) 344-4775 (fax)

FAX

Date 3/24/2003

Number of pages including cover sheet 1

TO: Con Bunde
Labor and Commerce
Committee

Phone
Fax Phone 907-465-3871

CC: Scott Ogan, 907-465-3265

REMARKS: Urgent For your review Reply ASAP Please Comment

FROM: Michael Kahler
Alaska Construction
Surveys, LLC
4141 B Street
Suite 203
Anchorage, Alaska
99503

E-Mail Mmikek@gci.net

Senate Bill 111

I reside in Chugiak and am opposed to Senate Bill 111.

This bill looks like smoke and mirrors to me.

The extra fees will merely be added to the cost of construction and paid for by the owner, be it State Municipality, Borough or School District.

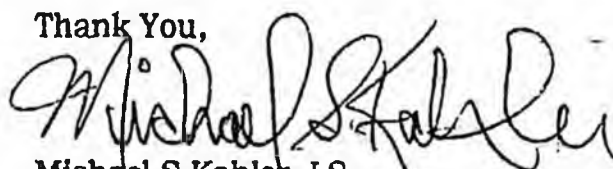
We are required to pay Davis Bacon wages and to submit Certified payroll on a weekly basis at present. What purpose does the "Notice of intent to pay Prevailing wages" fulfill?

The department of Labor will not save money; they will just change job titles for the person processing the certified payroll.

I applaud everyone's efforts to 'cut the fat', but let's be realistic. Changing job titles and shifting cubicle walls isn't saving anyone anything. Adding more expense and overhead burden to contractors does add to the cost of construction.

Please, tally me against Senate Bill 111.

Thank You,


Michael S Kahler, LS
Alaska Construction Surveys, LLC

Handwritten initials: M-C

Mar 21 03 11:41p

Alpine General Cont Inc

907 522 2111

P. 1

*Alpine General Contractors, Inc.*P.O. Box 200985
Anchorage, Alaska 99520(907) 522-2100
FAX 522-2111

March 21, 2003

Senator Con Bunde
Fax 465-3871

Re: Opposition to Senate Bill #111

Mr. Bunde,

We object strongly to SB111 for several reasons.

#1 - The additional \$200.00 fees will be charged back to the owners of the projects. Therefore what DOL has brought in, in fees will be charged back to DOT, Anchorage School District, MOA, and any and all other public agencies having work done. So therefore what DOL has brought in has just cost all other public entities more money & it will be more than the \$200.00 because of the extra paperwork & hassle involved. A good number of contracting agencies do not take the certified payrolls now, so there is no double filing on a lot of jobs but now they will have to hire extra personnel to handle the paperwork and there will not be the continuity there is today. So have we really made money? These public entities are all funded by tax dollars. This is just a shell game of moving the money around, & it will cost far more than it does now.

#2 - DOL says they are going to be able to cut a Wage & Hour Tech. They may cut the position of the person who now handles the certified payrolls, but now they have to hire someone to file the affidavits & then they have to verify that contractors have complied by checking with the contracting agency (when before they had the paperwork) and they have to send out releases. So now we've replaced the former Wage & Hour Tech with a new body. So how did they save any money by firing the 1st person?

#3 - The fees are to be charged regardless of the size of the subcontract. We are frequently on multi million jobs where we do under \$2,000.00 or even under \$1,000.00 worth of work. We are just going to tack it back on our bill to the general contractor who will get to tack it on to his bill.

This really doesn't seem to have been very well thought out. I get the impression that as contractors we were all supposed to just eat the \$200.00 on each job & be so happy to work at our previous prices.

Please do not support this bill.

Sincerely,


Jacqueline D. Horner
Secretary/TreasurerCC: Labor & Commerce Committee Members
Thyes Shaub, NFIB Ak State Director

CEI

"The Solutions Company"

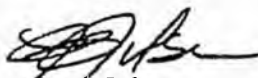
Date: March 24, 2003
To: Senator Ben Stevens
Chairman of the Senate Labor & Commerce Committee
Subject: HB 155

I object to the passage of HB155 because it would neither save money for the state nor would it generate any additional revenue. In the long run it may actually end up costing the state more money since contractors/subcontractors would not be able to absorb the extra costs which would include not only the pre and post contract fees but also the cost of additional man hours to complete the additional paperwork associated with these fees. They will have to increase the bid amounts which would make any project that much more expensive for the state. The DOL analysis of this bill states "...It will also allow the elimination of the Wage and Hour technician position that currently files the payrolls..." I do not believe this position will be eliminated. The technician would just have a different set of duties which would include keeping track of all the jobs and whether the contractors and subcontractors have filed their certifications of compliance with associated fees.

HB 155 does not deal with the different types of contracts or how they will be affected by this bill. How would a contractor deal with an umbrella contract that has many purchase/work orders over the life of the contract? Would this contractor have to wait until the end of the total contract before he can expect final payment on each purchase/work order completed under the contract? On a contract that spans a year or more would a subcontractor who works at the beginning of the job, and is in full compliance, have to wait until the very end of the job or longer to collect all the monies due? The way "(c)" is written both of these scenarios may occur.

This bill does not take in to consideration the size of a contract/subcontract. A contractor who has a contract for only \$2500 would have to pay the same pre and post contract fees as a contractor with a much large contract. The subcontractor may only have a contract worth \$100 and would still be required to pay \$200 in fees since the submission of certified payrolls and the need to pay prevailing wages is based on the main contract amount and not the subcontract amount.

This bill will generate a lot of excess and unnecessary paperwork for buisnesses and will not save any money for the state. Please vote AGAINST this bill.



Janet Julsen
Payroll Administrator

davis constructors and engineers inc

740 Bonanza Avenue • Anchorage, Alaska 99518 • Ph. (907) 562-2336 • Fax (907) 561-3620

March 24, 2003

Senator Ben Stevens

Fax: 907.465.3872

Subject: HB 155 (Senate Bill 111)

I understand that you are the Chairman of the Committee that will be hearing HB 155 tomorrow at 1:30pm. I am writing on behalf of my company, Davis Constructors and Engineers, Inc., one of the largest general contractors in the state of Alaska. We do not support the proposed changes.

We are concerned with this attempt to shift the paperwork burden related to the enforcement of prevailing wage rates from the Department of Labor (DOL) to the contracting agencies. DOL claims that they'll be able to eliminate one employee—a file clerk—while we're left wondering how many employees will be needed at the various contracting agencies to handle weekly certified payroll reports. Aren't all of these employees public servants? It seems more logical and efficient to submit reporting required by the DOL to the DOL.

If this bill is passed, contractors and subcontractors will be required to submit two certified reports with a \$100 fee for each to the DOL for each project in addition to the currently required weekly certified payroll reports. The contractors and subcontractors will get nothing in return for their efforts and payments. Over time, the cost of construction projects (born by the taxpayers) will increase to reflect these additional fees (supposed to relieve the taxpayer burden).

In conclusion, we do not agree that the proposed changes will save taxpayers any money and we are certain that it will make reporting more difficult and expensive for contractors and subcontractors. We trust that you will work on our behalf to prevent the passage of HB 155.

Sincerely



Idonna Pieper Nelson, CPA
Controller/Corporate Secretary

General • Commercial • Design Build
Construction Management

Email: admin@davisconstructors.com

SB

113

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 3/6/03

FURTHER: Finance

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: _____

Labor and Commerce Committee considered SENATE BILL NO. 113

SB 113 FINANCIAL INSTITUTION EXAMINATIONS/CFAB

"An Act relating to the frequency of examinations of certain persons licensed to engage in the business of making loans of money, credit, goods, or things in action; repealing the requirement for a state examination and evaluation of the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Bethany Davis</i>	x			
<i>[Signature]</i>	x			
<i>Joseph Seeban</i>	✓			
<i>[Signature]</i>	x			
CHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 113
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Financial Institutions/Examinations/CFAB BRU Banking, Securities & Corporations (115)
Component Banking, Securities & Corporations
Sponsor Rules by Request of the Governor
Requester Senate Labor & Commerce Component No. 1233

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	(75.0)					
Travel	(3.0)					
Contractual	(48.0)					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(126.0)	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
CHANGE IN REVENUES (51137)	(25.0)					

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	(126.0)	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 126.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal: X

POSITIONS

POSITIONS	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Full-time	-1					
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation changes the frequency of examinations of people licensed under the Alaska Small Loans Act (AS 06.20), and repeals the requirement for a state examination and evaluation of the Alaska Commercial Fishing and Agriculture Bank (CFAB).

CHANGE IN REVENUE: We anticipate a loss of \$25.0 in revenue as a result of examination fees no longer collected.

Prepared by: Mark Davis, Director Phone 907-269-8452
Division Banking, Securities & Corporations Date/Time 3/6/03 3:40 PM
Approved by: W. Edgar Blatchford, Commissioner Date 3/6/2003
Agency Department of Community & Economic Development

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

March 5, 2003

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 107
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would give the Department more flexibility with regard to the frequency of examinations of financial institutions and the Alaska Commercial Fishing and Agriculture Bank.

Changing the date of frequency of examinations of Small Loan Companies from 12 months to 18 months will bring the schedule for the examinations in line with the rest of the banking code and eliminate the need for additional bank examiners. The bill also eliminates the Division of Banking, Securities, and Corporations' examination of the Commercial Fishing and Agriculture Bank (CFAB). This examination is unnecessary, because CFAB is required by statute to be audited annually by independent auditors and is subject to legislative audit.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in cursive script that reads "Frank H. Murkowski".

Frank H. Murkowski
Governor

SB

1 1 4

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSSB 114 (L&C)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Increase Business License Fee BRU Occupational Licensing (117)
Component Occupational Licensing
Sponsor Rules by Request of the Governor
Requester Senate Labor & Commerce Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	146.4	146.4	146.4	146.4	146.4	146.4
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	30.0	30.0	30.0	30.0	30.0	30.0
Supplies	5.0	5.0	5.0	5.0	5.0	5.0
Equipment	12.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	193.4	181.4	181.4	181.4	181.4	181.4

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

CHANGE IN REVENUES (1175)	9,905.3	9,905.3	9,905.3	9,905.3	9,905.3	9,905.3
------------------------------------	----------------	----------------	----------------	----------------	----------------	----------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1175 - BusLic Receipts	193.4	181.4	181.4	181.4	181.4	181.4
TOTAL	193.4	181.4	181.4	181.4	181.4	181.4

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSSB 114(L&C) creates annual licensing for Business Licenses. The bill also proposes to make the following changes to the current program -

- 1) Establish two categories of licensure: Sole Proprietors and All Others;
- 2) Establish annual fees at \$100 for Sole Proprietors, and \$300 for All Others;
- 3) Require tobacco endorsements attached to a business license to be paid annually, \$100 per location.

Detailed explanation of the costs shown above are attached.

Prepared by: Jennifer Strickler, Administrative Manager Phone 907-465-2144
Division: Occupational Licensing Date/Time 4/30/03 4:13 PM
Approved by: Edgar Blatchford, Commissioner Date 4/30/2003
Agency: Department of Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSSB 114 (L&C)

ANALYSIS CONTINUATION

CSSB 114(L&C): An act increasing the fee for a state business license...

PERSONAL SERVICES: \$146.4

1 - Administrative Clerk III position, Range 10, PFT, located in Anchorage, \$40.3
Currently, the business licensing program is supported by one dedicated position in Anchorage. By switching from a biennial to annual cycle, this position is needed to support the increased workload of the program.

1 - Analyst Programmer III position, Range 18, PFT, located in Juneau, \$65.8
The change in licensing from biennial to annual will require reprogramming and ongoing maintenance of all business licensing programs including databases and the online licensing programs, receipting, integration of online purchase/renewal systems and over-the-counter system for accepting credit card payments, and reporting systems.

Funding for an Administrative Clerk III position, Range 10, PFT, located in Juneau, \$40.3.
Currently, the position is funded by RSA from the Department of Health & Social Services for tobacco enforcement related purposes; however, RSA funds are likely to be reduced. Maintaining this position with business license receipts is essential to operating the business licensing program on an annual cycle. This position processes business license applications, verifies payments and information provided for issuance of tobacco endorsements, prints licenses with endorsements, and ensures sufficient numbers of Tobacco Signs and Penalty lists are sent to the business owner.

TRAVEL: \$0.0

No travel is required.

CONTRACTUAL SERVICES: \$30.0

Funding needed to reprint basic forms, public notices, and revise regulations, \$10.0
Funding needed to revise and mail renewal packets, \$20.0

SUPPLIES: \$5.0

Basic operating supplies to change licensing cycles.

EQUIPMENT: \$12.0 (one-time costs)

Basic office equipment and work station configuration for the new positions.

REVENUE:

The revenue is based on the calculations shown on page 3.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSSB 114 (L&C)

ANALYSIS CONTINUATION

CSSB 114(L&C): An act increasing the fee for a state business license...

REVENUE

Based on the total of 69,315 business licenses on 4/17/03.

Fee for Sole Proprietorship - \$100. (Based on estimated dropout of 25% of 41,253 = 10,313.)

Fee for Corporation, Limited Liability Company, Partnership
Limited Liability Partnership, or Limited Partnership - \$300.

	Annual Revenue	Current Revenue	NEW REVENUE
Sole Proprietors 30,940 x \$100.	\$3,094,000.	\$1,031,325.	\$2,062,675.
All Others 28,062 x \$300.	8,418,600.	701,550.	7,717,050.
		Sub-Total New Revenue:	\$9,779,725.
Tobacco Endorsements 1,256 x \$100.	\$125,600.	0	\$125,600.
		TOTAL NEW REVENUE:	\$9,905,325.

TOTAL BUSINESS LICENSES ON 4/17/03

Sole Proprietor	41,253
Corporation or Limited Liability	19,663
Partnership, Limited Liability Partnership, or Limited Partnership	8,399
TOTAL LICENSES:	69,315

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 3/6/03

FURTHER: Finance

Date of 5-Day Notice: _____
 in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: _____

Labor and Commerce Committee considered SENATE BILL NO. 114

SB 114 INCREASE BUSINESS LICENSE FEE

'An Act increasing the fee for a state business license; and providing for an effective date.'

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

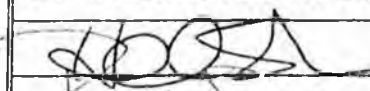

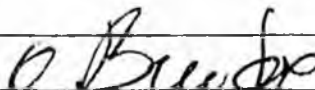
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
			X	
Joseph Seekin	✓			
				X
CHAIR: 	✓			

Proposed Business License Fees

From: Rick Urion

Based on the total of 69,315 business licenses on 4/17/03.

Annual License Fee with licenses required for each location for businesses with multiple locations.

Fee for Sole Proprietorship- \$100. (Based on estimated dropout of 25% of 41,253 = 10,313.)

Fee for Corporation, Limited Liability Company, Partnership,
Limited Liability Partnership, or Limited Partnership- \$300.

		Annual Revenue	Current Revenue	NEW REVENUE
Sole Proprietors	30,940 x \$100.	\$3,094,000.	\$1,031,325.	\$2,062,675.
All Others	28,062 x \$300.	8,418,600.	701,550.	7,717,050.
			Total New Revenue	\$9,779,725.
 Multiple Locations				
	265x \$300.	\$79,500.	1,550.	\$77,950.
 Tobacco Endorsements				
	1256x \$100.	125,600.	0	125,600.
			TOTAL NEW REVENUE	\$9,983,275.

TOTAL BUSINESS LICENSES ON 4/17/03

Sole Proprietor	41,253
Corporation or Limited Liability	19,663
Partnership, Limited Liability Partnership, or Limited Partnership	8399
TOTAL LICENSES	69,315

#1 - GOVERNOR'S BILL: At \$200 per year for 0 - 4; 21,966 dropouts (50% sole proprietors)

No. of Employees (DOL Qtr 3)	Dept of Labor Statistics (# of Firms)	No. of BL's 65773	Proposed Fee (annual)	ANNUAL REVENUE	# of BL's x \$25 Annual Fee (Current Revenue)	Annual Rev. less Current Rev. NEW REVENUE
0 to 4	9,012	37,142	\$200.00	\$7,428,400.00	\$1,477,700.00	\$5,950,700.00
5 to 19	5,104	5,104	200.00	\$1,020,800.00	\$127,600.00	\$893,200.00
20+	1,561	1,561	200.00	\$312,200.00	\$39,025.00	\$273,175.00
TOTAL Annual Revenue:				\$8,761,400.00	\$1,644,325.00	\$7,117,075.00

#2 - At \$50 per year for 0 - 4; with NO dropouts HB 162 as currently amended

No. of Employees (DOL Qtr 3)	Dept of Labor Statistics (# of Firms)	No. of BL's 65773	Proposed Fee (annual)	ANNUAL REVENUE	# of BL's x \$25 Annual Fee (Current Revenue)	Annual Rev. less Current Rev. NEW REVENUE
0 to 4	9,012	59,108	\$50.00	\$2,955,400.00	\$1,477,700.00	\$1,477,700.00
5 to 19	5,104	5,104	100.00	\$510,400.00	\$127,600.00	\$382,800.00
20+	1,561	1,561	200.00	\$312,200.00	\$39,025.00	\$273,175.00
TOTAL Annual Revenue:				\$3,778,000.00	\$1,644,325.00	\$2,133,675.00

#3 - At \$75 per year for 0 - 4; 5,492 dropouts (12.5% sole proprietors)

No. of Employees (DOL Qtr 3)	Dept of Labor Statistics (# of Firms)	No. of BL's 65773	Proposed Fee (annual)	ANNUAL REVENUE	# of BL's x \$25 Annual Fee (Current Revenue)	Annual Rev. less Current Rev. NEW REVENUE
0 to 4	9,012	53,616	\$75.00	\$4,021,200.00	\$1,477,700.00	\$2,543,500.00
5 to 19	5,104	5,104	200.00	\$1,020,800.00	\$127,600.00	\$893,200.00
20+	1,561	1,561	300.00	\$468,300.00	\$39,025.00	\$429,275.00
TOTAL Annual Revenue:				\$5,510,300.00	\$1,644,325.00	\$3,865,975.00

#4 - At \$100 per year for 0 - 4; 10,984 dropouts (25% sole proprietors)

No. of Employees (DOL Qtr 3)	Dept of Labor Statistics (# of Firms)	No. of BL's 65773	Proposed Fee (annual)	ANNUAL REVENUE	# of BL's x \$25 Annual Fee (Current Revenue)	Annual Rev. less Current Rev. NEW REVENUE
0 to 4	9,012	48,124	\$100.00	\$4,812,400.00	\$1,477,700.00	\$3,334,700.00
5 to 19	5,104	5,104	200.00	\$1,020,800.00	\$127,600.00	\$893,200.00
20+	1,561	1,561	300.00	\$468,300.00	\$39,025.00	\$429,275.00
TOTAL Annual Revenue:				\$6,301,500.00	\$1,644,325.00	\$4,657,175.00

PAID
4-2-82
10 7/10

Frank H. Murkowski, Governor

Alaska

**Department of Community
and Economic Development**

Office of the Commissioner

P.O. Box 110800, Juneau, AK 99811-0800

Telephone: (907) 465-2500 • Fax: (907) 465-5442 • Text Telephone: (907) 465-5437

Email: questions@dced.state.ak.us • Website: www.dced.state.ak.us/

06 March 2003

The Honorable Con Bunde
Alaska State Senate
State Capitol, Room 506
Juneau, AK 99801-1182

RE: Request for Hearing on SB114

Dear Senator Bunde:

On March 6, 2003, SB114 was introduced by the Governor through the Senate Rules committee and referred to your committee. The legislation increases the business license fee from \$25 per year to \$200 per year. The current fee amount was set in 1949 and hasn't since been changed.

The increased revenue under this legislation is estimated at \$6.9 million. This increase will help cover programs and other infrastructure the state provides that enable individuals to conduct business in the state. There are currently approximately 70,000 business licenses in the state and some fall-off is expected as a result of the increased fee.

We respectfully request you to schedule SB114 for hearing in your committee and we urge favorable action on this bill. Attached is the related fiscal note. We will be happy to meet with you and other members of the committee to provide any other information you may require. Thank you for considering our request.

Sincerely,

Edgar Blatchford

Edgar Blatchford,
Commissioner

Attachment: SB114 Fiscal Note

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 114
 () Publish Date: _____

Revision Date/Time (Note if correction): _____
 Title Increasing Business Licensing Fees

Dept. Affected: DCED
 BRU Occupational Licensing (117)
 Component Occupational Licensing

Sponsor Rules by Request of the Governor
 Requester Senate Labor & Commerce

Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES - 1175	6,935.0	6,935.0	6,935.0	6,935.0	6,935.0	6,935.0
----------------------------------	----------------	----------------	----------------	----------------	----------------	----------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1175 - BusLic Receipts	6,935.0	6,935.0	6,935.0	6,935.0	6,935.0	6,935.0
TOTAL	6,935.0	6,935.0	6,935.0	6,935.0	6,935.0	6,935.0

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	3	3	3	3	3	3
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill increases the business license fee from \$25.00 per year to \$200.00 per year. Business Licensing regulation 12 AAC 12.010(a) specifies that business licenses are issued on a biennial cycle, and therefore licensees will be expected to pay \$400.00 license fees upon issuance of new or renewed licenses.

REVENUE:

The revenue increase identified above is based on licensees that would be eligible to renew, assuming that 40% of the 73,000 licensees would not renew due to the fee increase.

Prepared by: Tom Lawson, Director
 Division: Administrative Services
 Approved by: Edgar Blatchford, Commissioner
 Agency: Department of Community & Economic Development

Phone: (907) 465-2144
 Date/Time: 3/6/03 3:47 PM
 Date: 3/6/2003

3/12/2003

To: Senator Con Bunde
Chair Senate Labor and Commerce Committee
And Committee Members
Fax: 907-465-3871

From: Ronald Jordan
8170 Woodgreen Cr.
Anchorage, AK.. 99518

Ref: SB 114 "Increase Business License Fee"

Dear Senator Bunde

SB 114 "Increase Business License Fee" I do agree that license fees need to be changed. But the proposed change by the Governor will hurt or stop a new small business from being started with a \$400.00 up front biannual fee. For a proposed license fee change like this would stop new many people from even starting up a business.

I would like to recommend a "Stair Step Method" licensing method that some city's and states have for established business in the lower 48. I would like to submit that the committee look at a \$100.00 biannual first time small business start up fee. State quarterly reports of personnel working would be able to track the need for increased fees.

Also I would to submit to you and your committee a licensing example from the City of Leavenworth, WA. on the following two faxed pages. If the committee would consider a look at changing our business licensing method to this type of program.

Sincerely
Ronald Jordan



8170 Woodgreen Cr.
Anchorage, AK. 99518
907-345-2755

Cc: Senator John Cowdery
My Senate Rep.

ATTEN: JANC

CITY OF LEAVENWORTH, WASHINGTON

Annual Business License Application

City Business License Year is from July 1 - June 30.

Year _____

Name of Business _____

Mailing Address _____

Type of Business _____

Leavenworth Business Address _____ Phone: _____

Name of Owner _____

Mailing Address _____

Number of Persons, INCLUDING OWNERS, working in or for the Business on June 1st.

*No. of Persons _____ Fee \$ _____

Make Remittance to City Clerk

(*For businesses located outside city, show number of persons who perform any part of duties inside city, For businesses inside the city, show number of persons working in the business.)

SCHEDULE OF FEES

Number of Persons	Fee
1 to 5	\$100.00
6 to 12	\$120.00
13 to 25	\$270.00
26 to 50	\$475.00
51 and over	\$700.00
Any New Business, part year after January 1 to June 30	1/2 Rate

PENALTY - AFTER JULY 31st.

Any person failing to pay the annual license fee imposed when due shall pay a civil penalty to the City of Leavenworth equal to 50% of the applicable business license fee in the event the annual fee is paid after July 31 but on or before August 31 in the year in which it is due and a penalty equal to 100% of the applicable license fee due in the event the annual license fee is paid after August 31 in the year in which said fee is due. (Ordinance #'s 748 and 874)

I certify under penalty of perjury that the information above is correct, to my best knowledge and belief.

_____, 20____
Date of Application

(Signature)

(Title)

Note: Please complete and return to:
City Clerk
P.O. Box 287
Leavenworth, WA 98826

Phone: (509) 548-5275
Fax: (509) 548-6429

CITY CLERK'S USE ONLY - DO NOT WRITE BELOW THIS LINE

DATE RECEIVED _____ LICENSE NO. _____ \$ _____ Amount

APPROVED BY _____ PENALTY _____

CHECK # _____ CASH _____ RECEIPT # _____ TOTAL \$ _____

PAYMENT DUE JUNE 30th - DELINQUENT PER PENALTY AFTER JULY 31st

City of Leavenworth

P.O. Box 287
Leavenworth, WA 98826
Phone: 509/548-5275
FAX: 509/548-6429

INFORMATION FOR NEW BUSINESS OWNERS

A city business license is required for all businesses located within the city limits. An application can be obtained at the front counter in city hall. The business license year runs from July 1 through June 30. Most businesses are located within the commercial zones of the city. Some home businesses in the residential zones may be allowed but typically require a conditional use permit (CUP). A presubmission conference should be held to determine what will be required.

All commercial buildings, structures, walkways, and lighting in the commercial zones of the city are subject to the Old World Bavarian architectural theme requirements. These requirements are found in Chapter 14.08 of the Leavenworth Municipal Code and are reviewed by the Leavenworth Design Review Board. The city staff contact person for the design review board is the code administrator. A building permit and design review approval is required for most new commercial construction and remodeling. Design review approval is required for repainting of a commercial building to a color different from the color originally approved. A sign permit approved by the design review board is also required for a new sign or when changing a sign. To inquire about what requirements would apply to your project, please consult Chapters 14.08 and 14.10 of the Leavenworth Municipal Code and talk with the code administrator.

For most projects, a presubmission conference is required. This meeting is held to provide the applicant with the best available information regarding the development proposal and application processing requirements. The presubmission conference is an opportunity for the applicant, staff, and other agencies to informally discuss and review the proposed development, application and permit requirements, fees, review process and schedule, and applicable development standards, plans, policies and laws. A presubmission conference handout and application form are available at the front counter at city hall. The presubmission conference is offered at no charge.

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

March 5, 2003

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 107
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would increase the fee for a business license.

The current fee has been in effect since 1949. The current revenues collected fall far short of the services provided to Alaskan businesses. The increase in fees is in line with what other states charge.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in black ink that reads "Frank H. Murkowski".

Frank H. Murkowski
Governor

SB

120

Beard Stacey Trueb & Jacobsen, LLP

ATTORNEYS AT LAW

821 N Street, Suite 205 • Anchorage, Alaska 99501

March 24, 2003

Sent Via DHL Overnight & Facsimile (907) 465-3871 (2, page(s))

Senator Con Bunde
State Capitol, Room 506
Juneau, AK 99801-1182

Re: Senate Bill 120

Dear Con:

As a constituent of your district for the last 11 years, I have chatted with you on a number of occasions regarding various issues. I write to you concerning Senate Bill 120, which has been referred to your committee, Senate Labor and Commerce.

I am writing to inform you that I have several objections to this legislation. My law firm has represented some of the State's employees who are now covered under the federal law known as the Jones Act. We are maritime law experts and, therefore, have considerable knowledge concerning this bill.

First, the bill would create second-class citizens out of the State's Marine Highway employees. Every seaman in the State would be able to seek compensation under the Jones Act except the State's Marine Highway employees. If a person is employed as a commercial fisherman, for a tugboat company, or for Tote or CSX Lines, they are covered under the Jones Act and entitled to those remedies. The only exception would be State marine workers. Passage of this bill may indeed violate Article I, Section I of the Alaska Constitution guaranteeing equal protection of the laws to all citizens.

Second, in a long line of cases the United States Supreme Court, and every state court that has considered the issue, has held that states cannot apply worker's compensation statutes to merchant seamen. The reasoning is two-fold. The primary obstacle is the fact that a seaman's remedies are maritime in nature and under the purview of federal admiralty jurisdiction. Under the federal Constitution, maritime matters are reserved for the federal legislature to the exclusion of the states. In short, there is a federal constitutional bar to the states applying state workers' compensation laws to seamen. The secondary reason is that Congress has completely occupied the field with a law of national application, the Jones Act, and the states may not apply inconsistent laws. These principles are well established and beyond reasonable dispute. There are two Alaska cases that have dealt directly with this issue and are consistent with every other case on the subject. These cases are: Anderson v. Alaska Packers Association, 635 P.2d 1182 (1981), and Trident v. Murray, 2000 AMC 288 (Ak. Superior

Anchorage Office (907) 272-7207 • Telefax (907) 274-9115 • E-Mail: blstanc@alaska.net
Seattle Office (206) 282-3100 • Telefax (206) 282-1149 • E-Mail: blstsea@halcyon.com

Ct. 1999). Therefore, if the Legislature were to make workers' compensation applicable to seamen, it would be a mere gratuity, or supplemental benefit, and not binding upon the injured worker.

Third, the state's waiver of sovereign immunity is contained in the Alaska Constitution. Article II, Section 21 provides: "The legislature shall establish procedures for suits against the state." (Emphasis supplied). The word "shall" is always mandatory. Article II, Section 21 abolished the doctrine of sovereign immunity in Alaska because it left no option for the legislature not to establish procedures for suits. Section 21 also mandates that the legislature establish the "procedures" for suits against the state. The word "procedures" is commonly understood to refer to the mechanics of filing suits and it has nothing to do with the substantive right to sue the state. This is the only logical manner in which Article II, Section 21 can be read. See Muskopf v. Corning Hospital District, 359 P.2d 457, 460-61 (Cal. 1961)(interpreting similar constitutional language, and judicially abolishing sovereign immunity). Accordingly, if Alaska is going to abolish sovereign immunity for these suits in its own courts it will have to do so via a constitutional amendment. Senate Bill 120 cannot accomplish the revocation of state sovereign immunity.

Fourth, the Jones Act provides that all state courts shall have concurrent jurisdiction over these suits. 45 U.S.C. § 56. The Alaska Supreme Court has held that Jones Act suits may be filed in any available forum. Nunez v. American Seafoods, 52 P.2d 720 (2002). Under federal and state case law these Jones Act suits could be filed in Bellingham, Washington because the state has a ferry terminal there and is subject to jurisdiction in that forum. The State of Alaska has no sovereign immunity in the Washington courts. Alden v. Maine, 119 S.Ct. 2240 (1999); Hall v. Nevada, 440 U.S. 410 (1979).

Acceptance of workers' compensation benefits cannot bar a Jones Act lawsuit. Chan v. Society Expeditions, Inc., 39 F.3d 1398, 1403 (9th Cir. 1994), cert. denied, 514 U.S. 1004 (1995); Roberts v. City of Plantation, 558 F.2d 750, 751 (5th Cir. 1977); Western Boat Bldg. Co. v. O'Leary, 198 F.2d 409, 411 (9th Cir. 1952); State v. Brown, 794 P.2d 108, 110, 111 (Alaska 1990). The Washington courts are constitutionally bound to apply maritime law to a Jones Act suit filed against the State of Alaska in a Washington Court. Larios v. Victory Carries, Inc., 316 F.2d 63 (2d Cir. 1963); In Re: EXXON VALDEZ, 767 F.Supp. 1509, 1513 (D. Alaska 1991). Therefore, even if Alaska could close the courthouse door to these employees in the Alaska courts, it cannot close the Washington courthouse door. The state would therefore be faced with hiring expensive private counsel to defend itself from the lawsuits that would be filed in the Washington courts.

Fifth, there is no empirical evidence that the state would obtain any savings by covering these workers under the workers' compensation scheme. I am familiar with only one scientific study of the issue by the American Waterways Operators. That organization looked at 371 cases that were covered by workers' compensation and the

Senator Con Bunde
March 24, 2003
Page 3 of 3

Jones Act, and concluded that it was less expensive to compensate workers under the Jones Act.

In summary, Senate Bill 120, if passed will not accomplish its goals. It will lead to expensive and protracted litigation, make second-class citizens out of state employed seamen, and create confusion and uncertainty for injured workers.

In order to aid your staff in consideration of these technical legal matters, I will in the near future send you a legal brief on the matters outlined above. I respectfully request you to carefully consider the above comments while considering the wisdom of this legislation.

Sincerely,


Lanning M. Trueb

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 3/6/03

FURTHER: Finance

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: _____

Labor and Commerce Committee considered SENATE BILL NO. 120

SB 120 STATE-EMPLOYED SEAMEN

"An Act relating to the state's sovereign immunity for certain actions regarding injury, illness, or death of state-employed seamen and to workers' compensation coverage for those seamen; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Bettye Davis</i>			X	
<i>[Signature]</i>	X			
<i>Ralph Seaborn</i>	✓			
<i>[Signature]</i>	X			
CHAIR: <i>[Signature]</i>	✓			

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Frank H. Murkowski, Governor

P.O. BOX 110300
DIMOND COURT HOUSE, 6TH FLOOR
JUNEAU, ALASKA 99811-0300
PHONE: (907)465-3600
FAX: (907)465-6735

April 1, 2003

The Honorable Con Bunde, Chair
The Honorable Ralph Seekins
The Honorable Bettye Davis
The Honorable Hollis French
The Honorable Gary Stevens
Senate Labor & Commerce Committee
Alaska State Legislature
State Capitol, Room 206
Juneau, AK 99801-1182

Re: SB 120

Dear Senators:

Thank you for the opportunity to respond to legal questions raised by Lanning Trueb of the law firm Beard Stacey Trueb & Jacobsen regarding SB 120, relating to the state's withdrawal of consent to suit and provision of workers' compensation instead of maritime law remedies for state-employed seamen. We have reviewed the arguments put forth by Mr. Trueb and do not believe that any of them present insurmountable obstacles to effectuating the purpose of this bill, which is to provide a uniform system of remedy for injury, illness, or death of state employees.

As a preliminary matter, it is important to note that the approach taken by this bill was expressly suggested with approval by the Alaska Supreme Court in its decision in *State, Department of Public Safety v. Robert Brown* (Brown I), 794 P.2d 108 (Alaska 1990). The court found that the 1962 enactment of the state's tort claims act, AS 09.50.250, expanded the waiver of sovereign immunity to cover all tort claims against the state, including admiralty matters, without any limiting language referring to Alaska's workers' compensation law. *Brown I*, 794 P.2d at 109. The court expressly agreed with a 1963 opinion of the Attorney General:

By this waiver of immunity it must be concluded that the State may be sued for negligent torts which arise under the Jones Act. It is true that under the Alaska Workmen's Compensation Act, employers, including the State (AS 23.30.265), are excluded from admiralty liability.

...

However, this exclusive liability provision cannot act as a limitation on suits against the State under the Federal Maritime law once the State has unqualifiedly waived its immunity for negligent torts. ... By waiving its immunity, the state stands in the position of a private party and cannot limit its tort liability by a general provision in the workmen's compensation act.

...

If it is the desire of the State to limit its tort liability to the workmen's compensation act, it may do so by legislative enactment of an exception to the waiver of sovereign immunity section contained in AS 09.50.250.

Brown I, 794 P.2d at 110 (citations omitted, emphasis added). In addition, after reviewing three cases from other states in which the relationship between maritime remedies and sovereign immunity was examined, the court held: "These cases teach that the legislature could make the exclusive remedy defense [of the Alaska Workers' Compensation Act] applicable to federal maritime claims by referring to the defense in the sovereign immunity waiver" contained in AS 09.50.250. *Brown I*, 794 P.2d at 111. That is what SB 120 attempts to do.

The United States Supreme Court has repeatedly upheld the states' sovereign immunity against claims founded in federal law, particularly in the decade since *Brown I* was decided. In *Seminole Tribe of Florida v. Florida*, 517 U.S. 44, 72 (1996), the Court held that Congress could not abrogate state sovereign immunity under Article I of the Constitution. Three years later the Court confirmed that Congress could not subject unconsenting states to private suits for damages in state courts pursuant to federal causes of action.¹ *Alden v. Maine*, 527 U.S. 706, 712 (1999) (affirming dismissal of employees' state court suit under Fair Labor Standards Act against State of Maine, without its consent). Most recently, in *Federal Maritime Commission (FMC) v. South Carolina*

¹ Years earlier, the Court had found that Congress did not abrogate the states' Eleventh Amendment immunity from suit in federal court in the Jones Act. *Welch v. Texas Dept. of Highways & Public Trans.*, 483 U.S. 468, 475 (1987).

State Ports Authority, 535 U.S. 743, 122 S.Ct. 1864 (2002), the Court found that sovereign immunity barred a federal agency from adjudicating a private party's complaint against a state-run port under a federal law. The Court rejected the argument that a "constitutional necessity of uniformity in the regulation of maritime commerce limits the States' sovereignty with respect to the Federal Government's authority to regulate that commerce." *FMC*, 122 S.Ct. at 1878. The Court noted that it had "already held that the States' sovereign immunity extends to cases concerning maritime commerce." *Id.*, citing *Ex parte New York*, 256 U.S. 490 (1921).

Under the rationale of *Brown I* and the last decade of United States Supreme Court jurisprudence, state sovereign immunity is a legitimate defense to claims brought under the Jones Act or maritime law. Amendment of AS 09.50.250 is necessary to withdraw the state's consent to suit, assert sovereign immunity as to claims brought by or on behalf of state-employed seamen regarding injury, illness, or death, and provide workers' compensation benefits as an alternative remedy.²

We turn briefly to the legal arguments presented by Mr. Trueb's March 24, 2003, letter. First, the question has been raised whether passage of this bill might violate the equal protection provision in Article I, section 1 of the Alaska Constitution, because state-employed seamen would have different remedies than seamen in the private sector. We believe that the state's goal in providing a uniform system of no-fault workers' compensation benefits to all state employees has a rational basis that would satisfy equal protection. We note that, like other state employees, state-employed seamen have much in common with other state employees. State-employed seamen have many additional benefits, such as sick leave, employer contributions to health insurance, retirement, supplemental benefits, exemption from social security contributions, and other benefits, that private sector seamen do not have.

Furthermore, this would not be the only instance in which a federal remedial system did not apply to state employees. For example, Congress has specifically exempted employees of states from coverage of the Longshoremen's and Harbor Workers' Compensation Act. 33 U.S.C. § 903(a)(2). In addition, while private sector railroad employees in Alaska are covered by the Federal Employers' Liability Act (FELA), and have the same right to sue their employers for damages as seamen do under the Jones Act, the employees of the Alaska Railroad have been expressly excluded from FELA since the railroad's transfer to state ownership. (Alaska Railroad employees are

² We note that these seamen include not only those employed aboard AMHS ferries, but also seasonal seamen who work aboard research and law enforcement vessels. This bill would establish one remedy and a degree of certainty of expectations for all seamen who are state employees.

covered by state workers' compensation law.) As far back as 1957, New York law provided that the state did not waive its immunity to suit; workers' compensation was held to be the exclusive remedy for state-employed seamen. *Maloney v. State of New York*, 144 N.E.2d 364, 367 (N.Y. App. 1957). The Texas Court of Appeals found the same true under Texas law in 1977. *Lyons v. Texas A & M University*, 545 S.W.2d 56, 58-59 (Tex. Civ. App. 1977) ("The State, however, is immune from suit without its consent. It could provide any remedy it wished and limit seamen to that remedy exclusively."³)

As a general matter, states cannot apply workers' compensation statutes to limit federal maritime law for all seamen. However, as discussed above, a state can withhold its consent to suit under federal law, and its sovereign immunity cannot be abrogated by Congress. *Alden*, 527 U.S. 706. In the maritime arena, the arguable need for uniformity is secondary to the state's sovereign immunity. *FMC*, 122 S.Ct. at 1878. If the state does not agree to subject itself to claims under federal maritime law regarding injuries, illness, or death of its own employees, it can provide workers' compensation as an alternative remedy. *Brown I*, 794 P.2d at 110, 111; *Lyons*, 545 S.W.2d at 58-59; *Maloney*, 144 N.E.2d at 367; see also *Gross v. Washington State Ferries*, 367 P.2d 600, 602-603 (Wash. 1961).

We disagree with Mr. Trueb's contention that the Alaska legislature has no authority to assert sovereign immunity by amending AS 09.50.250. Such an argument flies directly in the face of the Alaska Supreme Court's holding in *Brown I*. No case has determined that the Alaska Constitution's provision in Article II, section 21 that the legislature shall establish procedures for suits against the state is a self-effectuating waiver of all state sovereign immunity. Instead, many Alaska appellate cases have found that waiver of the state's immunity is done by statute, and AS 09.50.250 is the vehicle by which the legislature has carried out its constitutionally delegated duty to "establish procedures for suits against the state." See, e.g., *State v. Haley*, 687 P.2d 305, 318 (Alaska 1984); *Adams v. State*, 555 P.2d 235, 241, 244 (Alaska 1976). Most recently, in *Samissa Anchorage v. DHSS, State of Alaska*, 57 P.3d 676, 678-679 and n. 9 (Alaska 2002), the court reiterated the common understanding that the legislature can waive the state's sovereign immunity, and it has done just that in enacting AS 09.50.250.

Finally, it is conceivable that some state-employed seamen could file suit in Washington to pursue Jones Act or other maritime law remedies if unsatisfied with workers' compensation. Under the holding of *Nevada v. Hall*, 440 U.S. 410 (1979), the

³ As the result of collective bargaining agreements with the unions representing AMHS vessel employees, the state provided workers' compensation to ferry workers from 1983 to 1991.

state does not have sovereign immunity within another state's courts.⁴ However, Washington law strictly limits personal jurisdiction to torts arising from the state's business or presence in Washington. *Grange Insurance Assoc. v. State*, 757 P.2d 933, 937 (Wash. 1988). Moreover, even if personal jurisdiction were established, Washington courts could decline to entertain suits against Alaska out of respect for the state, or comity. For example, in two accidents where the State of Oregon was sued in Washington, the Washington state courts declined to hear the cases, on the grounds of comity. *Williams v. State*, 885 P.2d 845, 851 (Wash. App. 1994); *Fernandez v. State*, 741 P.2d 1010, 1017 (Wash. App. 1987). Additional arguments regarding choice of law also favor dismissal of cases filed in Washington unless the plaintiff is a Washington resident and/or the tortious act occurred in Washington State. For these reasons, we would not anticipate many legitimate cases to be filed in Washington state courts.⁵

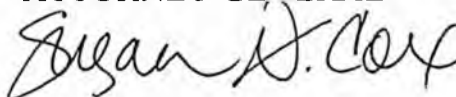
We recognize that this bill, if passed, may result in a legal challenge. However, we believe the bill has a solid legal foundation.

Please let us know if you have any questions or would like more information.

Sincerely,

GREGG D. RENKES
ATTORNEY GENERAL

By:



Susan D. Cox
Assistant Attorney General

⁴ The continued validity of this holding is being challenged in a case currently pending before the United States Supreme Court.

⁵ It is well-established that the state cannot be sued by a seaman in federal court in Washington or any other location. *Collins v. State of Alaska*, 823 F.2d 329 (9th Cir. 1987).

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 31, 2003

SUBJECT: State immunity against civil suits by state employees who are seamen (SB 120)

TO: Senator Con Bunde
Attn: Jane

FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have asked for my opinion on the opinion of Mr. Trueb, regarding potential legal obstacles to the enactment of SB 120. As explained in this memo, I do not believe that the arguments raised by Mr. Trueb would preclude the legislature from changing existing law as contemplated by SB 120.

The issue raised by SB 120 was addressed by the Alaska Supreme Court in State, Dept. of Public Safety v. Brown, 794 P.2d 108 (Alaska 1990). In that case the court held that the legislature had waived its sovereign immunity by adoption of AS 09.50.250, but that the legislature could amend AS 09.50.250 to make workers' compensation the exclusive remedy for an injured state employee who is a seaman. This is precisely what SB 120 does.

Turning to the arguments raised by Mr. Trueb each point will be addressed in turn.

1. The Alaska Constitution abolished sovereign immunity and sovereign immunity may only be reinstated by a constitutional amendment.

Answer: The view is in conflict with the opinion of the Alaska Supreme Court in Brown. In that case the court stated that "the legislature could make the exclusive remedy defense applicable to federal maritime claims by referring to the defense in the sovereign immunity waiver contained in" AS 09.50.250. The court makes no mention of any limitation on the legislature's power to amend the sovereign immunity provisions created by the legislature in AS 09.50.250.

2. Any attempt to institute sovereign immunity solely for Jones Act suits would offend the Alaska Bill of Rights.

Answer: This argument is again not supported by case law. Injured seaman who are state employees will have a remedy, that being the workers' compensation laws (AS

Senator Con Bunde
March 31, 2003
Page 2

23.30). If anything, SB 120 eliminates disparate treatment by requiring injured seamen who are state employees to be treated the same as all other state employees.

3. As a matter of federal constitutional law Alaska cannot apply its workers' compensation laws to seamen.

Answer: Again Brown, refutes this argument. The court cites to several cases from other states where the workers' compensation statutes are the exclusive remedy of injured workers, when the state has preserved its sovereign immunity.

4. Any amendment to close the door to the Alaska courts will not prohibit Jones Act suits from being filed in Washington Courts.

Answer: Assuming that the Washington Courts have jurisdiction in a particular case, the injured seaman would still be limited to benefits under the Alaska workers' compensation law, which is the intent of SB 120.

5. There is no empirical evidence that coverage under the workers' compensation system would save the State money.

Answer: The premise underlying workers' compensation is that employees trade a potential full recovery for certain partial compensation and avoid the expense and delay of litigation. This point was recognized by the Alaska Supreme Court in Brown v. State & Div. of Marine Highway Systems, 816 P.2d 1368 (Alaska 1991). This would seem to indicate that in general, the State would save money by requiring seamen who are State employees to use the workers' compensation system.

Please contact me if you have further questions.

MFF:mdr
03-051.mdr

An analysis of AMHS crew claims costs compared to those provided under the Alaska Workers Comp Act (AWCA) for all other state employees.

The enclosed Excel workbook contains detailed breakouts of the actual incurred loss (cost to date plus anticipated expense) by each individual AMHS vessel for the past six fiscal years.

To objectively analyze the AMHS employee's injury experience to the state's overall employee injury rate, both frequency (number of claims) and severity (loss cost) are averaged and compared on a per 100 FTE (full time equivalent) basis.

Additional analysis was performed between AMHS and the five state agencies with the highest workers' compensation loss experience - to provide comparison to similar physically demanding jobs.

AMHS shows a five year average loss rate of 41 claims per 100 FTE's in comparison the state overall workers' compensation injury rate of 8, with the highest five agencies showing average loss experience of 10 claims per 100 FTE's.

On a cost per 100 FTE's analysis; AMHS actual claims experience during the last five years shows an average cost of \$197,065 compared to the top five state agencies averaged cost of \$64,145 during the same period.

The most significant difference is the award for the non-economic damages, not provided under workers compensation remedies and that life illnesses that are alleged to manifest during a voyage are covered under the Jones Act.

**AMHS CREW CLAIMS
FREQUENCY TO 100 FTE'S**

FISCAL YEAR	2002			2001			2000			1999			1998			TOTALS
	# Claims	FTEs	#/100FTEs	# Claims	FTEs	#/100FTEs	# Claims	FTEs	#/100FTEs	# Claims	FTEs	#/100FTEs	# Claims	FTEs	#/100FTEs	
SHIP																
AURORA	24	64.7	37.1	20	64.7	40	35	64.7	54	24	64.7	84	21	62.9	33	160
BARTLETT	14	21.1	66.4	17	21.1	81	14	21.1	60	7	21.1	314	19	22.7	84	130
KENNICOTT	47	112.1	41.9	81	112.1	72	44	112.1	39	33	112.1	35	not yet in service			211
COLUMBIA	35	97.7	35.8	1	97.7	1	25	97.7	28	31	97.7	26	21	94.8	22	108
LE CONTE	31	62.8	49.4	28	62.8	45	20	62.8	32	13	62.8	51	10	55.1	18	121
MALASPINA	22	36.3	60.6	40	36.3	110	18	36.3	50	13	36.3	137	19	45.4	42	149
MATANUSKA	65	82.9	78.4	56	82.9	68	44	82.9	53	29	82.9	64	38	112.9	32	254
TAKU	48	111.7	43.0	46	111.7	41	25	111.7	22	28	111.7	20	30	110.3	27	171
TUSTUMENA	25	65.9	37.9	37	65.9	56	23	65.9	35	24	65.9	53	22	66.0	33	142
OTHER AMHS	31			19			3			13			7			60
FISCAL YEAR TOTALS	342	655.2	50.1	351	655.2	54	251	655	38	215	655	33	178	570.1	31.2	1100
State W/C Claims & FTEs (not including AMHS)	1298	15,518	8.4	1,382	14,271.8	9.7	1,060	14,182.0	7.5	1,102	14,210.0	7.8	1,188	13,785.0	8.7	4945

Note: Work Comp FTEs taken from CORA and adjusted for AMHS FTE count.

	Claims	FTE's
AMHS (5) YEAR TOTAL	1,337.0	3,101

	Claims	FTEs
5 YEAR AVERAGE	267.4	638.2

AMHS CLAIMS per 100 FTEs - 5 Year Average	41
---	----

STATE W/C CLAIMS PER 100 FTE's	8
--------------------------------	---

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

**ALL DEPT CLAIMS
FREQUENCY TO 100 FTE'S**

DEPARTMENT	2002			2001			2000			1999			1998			1997			TOTALS
	# Claims	FTEs	#/100FTEs	# Claims	FTEs	#/100FTEs	# Claims	FTEs	#/100FTEs	# Claims	FTEs	#/100FTEs	# Claims	FTEs	#/100FTEs	# Claims	FTEs	#/100FTEs	
Govemor's Office	5	196	2.6	0	187	0.0	3	189	1.6	7	200	3.5	5	186	2.7	7	187	3.7	22
Administration	214	1468	14.6	260	1,404.0	18.5	211	1,536.0	13.7	180	1,334.0	13.5	192	1,289.0	14.9	162	1,155.0	15.8	1025
Law	20	478	4.2	18	454.0	3.5	8	453.0	1.8	11	447.0	2.5	17	441.0	3.9	15	439.0	3.4	67
Revenue	21	506	4.2	32	474.0	6.8	28	492.0	5.7	15	492.0	3.0	28	602.0	5.6	32	487.0	6.6	135
Education	28	451	6.2	15	398.0	3.8	17	510.0	3.3	20	497.0	4.0	25	491.0	5.1	34	506.0	6.7	111
Health & Social Services	168	2459	6.8	186	2,215.0	8.8	143	2,201.0	6.5	165	2,098.0	7.9	183	2,047.0	8.9	199	2,103.0	9.5	886
Labor & Workforce Dev	37	887	4.3	35	794.0	4.4	29	719.0	4.0	19	633.0	3.0	23	736.0	3.1	25	815.0	3.1	131
Commerce & Economic Dev	10	503	2.0	18	451.0	4.0	11	374.0	2.9	12	481.0	2.5	9	426.0	2.1	17	457.0	3.7	67
Military & Veterans Affairs	22	259	8.5	19	223.0	8.5	14	222.0	6.3	17	216.0	7.9	19	178.0	10.7	15	171.0	8.8	84
Natural Resources	112	714	15.7	135	657.0	20.5	87	675.0	12.9	95	910.0	10.4	132	609.0	21.7	158	837.0	16.9	607
Fish & Game	72	1225	5.9	84	1,137.0	7.4	89	1,148.0	7.8	76	1,121.0	8.7	85	1,095.0	7.8	83	899.0	8.3	418
Public Safety	139	764	18.2	123	727.0	16.9	94	754.0	12.5	92	766.0	12.0	89	748.0	11.9	88	887.0	8.9	486
Environmental Conservation	12	491	2.4	13	487.0	2.8	11	480.0	2.3	19	491.0	3.9	17	473.0	3.6	16	500.0	3.2	78
Corrections	162	1473	11.0	154	1,368.0	11.3	100	1,368.0	7.3	138	1,382.0	10.0	139	1,358.0	10.2	125	1,350.0	9.3	654
Transportation	251	2624	9.5	255	2,475.8	10.2	181	2,261.0	8.0	207	2,322.0	8.8	205	2,330.0	8.8	231	1,955.0	11.8	1077
Legislative Affairs	10	284	3.4	4	300.0	1.3	11	274.0	4.0	13	272.0	4.8	6	350.0	1.7	7	292.0	2.4	41
Legislative Audit	0	37	0.0	1	36.0	2.8	0	36.0	0.0	0	36.0	0.0	0	34.0	0.0	0	36.0	0.0	1
Courts	15	704	2.1	24	690.0	3.5	23	681.0	3.4	19	692.0	2.7	24	680.0	3.5	22	674.0	3.3	112
FISCAL YEAR TOTALS	1296	15516	8.4	1,382	14,272	9.7	1,060	14,182	7.5	1,102	14,210.0	7.8	1,198	13,785.0	8.7				4742

Note: Work Comp FTEs taken from CORA

DOT FTEs do not include AIRIS vessel employees.

AMHS Claims Frequency
compared to Top 5 State Dept W/C Claims Frequency per 100 FTEs

FISCAL YEAR	2002			2001			2000			1999			1998			1997			TOTALS
	# Claims	FTEs	#/100FTEs	# Claims	FTEs	#/100FTEs	# Claims	FTEs	#/100FTEs	# Claims	FTEs	#/100FTEs	# Claims	FTEs	#/100FTEs	# Claims	FTEs	#/100FTEs	
001 AURORA	24	84.7	37.1	28	84.7	40	35	84.7	64	24	84.7	37	21	62.9	33	11	42.7	26	117.17
002 BARTLETT	14	21.1	86.4	17	21.1	81	14	21.1	68	7	21.1	33	10	22.7	84	15	82.3	24	117.27
003 KENNICOTT	47	112.1	41.8	81	112.1	72	44	112.1	39	33	112.1	29	not yet in service			not yet in service			115.01
004 COLUMBIA	35	87.7	35.8	1	87.7	1	25	87.7	28	31	87.7	32	21	84.8	22	35	122.9	28	113.13
005 COLE COUNTY	31	82.8	48.4	28	82.8	45	20	82.8	32	13	82.8	21	10	55.1	18	10	82.8	30	119.07
006 MALASPINA	22	38.3	80.8	40	38.3	110	18	38.3	50	13	38.3	38	19	45.4	42	38	123.2	31	112.87
007 MATANUAKA	85	82.9	78.4	68	82.9	68	44	82.9	63	29	82.9	35	30	112.9	32	25	89.8	38	113.13
008 TAKUMI	48	111.7	43.0	40	111.7	41	25	111.7	22	28	111.7	25	30	110.3	27	35	111.0	31	118.41
009 TUMALO	25	65.0	37.0	37	65.0	50	23	65.0	35	24	65.0	38	22	66.0	33	21	62.4	34	112.74
010 OTHER AMHS	31			10			3			13			7			8			115.01
FISCAL YEAR TOTALS	342	855.2	50.1	351	855.2	64	251	855	38	215	855.2	32.8	178	570.1	31.2	100	657.8	30.3	1194.82
011 Other DOT	189	2829	8	258	2,433.0	11	184	2,377.0	8	107	1,706.8	11.5	203	1,759.0	11.5	231	2,264.2	10.2	1127.01
012 CORRECTIONS	164	2459	8	189	2,369.0	8	145	2,369.0	6	168	2,098.0	8.0	182	2,047.0	8.9	199	2,103.0	9.5	1189.38
013 ADMINISTRATION	142	1473	10	150	1,460.0	10	102	1,368.0	7	131	1,362.0	9.8	139	1,358.0	10.2	125	1,350.0	9.3	1147.20
014 PUB SAFETY	178	1468	12	259	1,442.0	18	210	1,404.0	15	178	1,334.0	13.3	182	1,289.0	14.9	182	1,155.0	15.8	1102.11
015	121	766	18	125	745.0	17	85	727.0	13	92	766.0	12.0	89	748.0	11.8	88	887.0	9.8	1189.38
(Top 5 Dept. Only) Work Comp Claims & FTEs (not including AMHS)	794	8,791	8	989	8,445	12	738	8,241	9	768	7,268.8	10.5	805	7,189.9	11.2	825	7,780.2	10.8	4320

Note: Top 5 Dept. Work Comp FTEs taken from CORA Bonds FTE column and adjusted for AMHS FTE count.

Row 14	# Claims	FTEs		
AMHS COMBINED (5) YEAR TOTAL	1,337	3,100.8		
AMHS 5 YEAR AVERAGE	267	638.2		
AMHS Frequency Rate per 100 FTEs	42		Top 5 Dept. Frequency Rate per 100 FTEs	10

AMHS EMPLOYEE INJURY CLAIMS
Cost per 100 FTEs

FISCAL YEAR	2002			2001			2000			1999			1998			TOTALS
	\$ Claims	FTEs	\$/100FTEs	\$ Claims	FTEs	\$/100FTEs	\$ Claims	FTEs	\$/100FTEs	\$ Claims	FTEs	\$/100FTEs	\$ Claims	FTEs	\$/100FTEs	
CLINIC AURORA	\$44,248	64.7	\$68,390	206,941	64.7	\$319,847	\$324,005	64.7	\$500,781	\$138,670	64.7	\$211,230	\$38,730	62.9	\$61,574	\$1,760,684
CLINIC BARTLETT	\$40,001	21.1	\$189,578	85,382	21.1	\$452,047	\$30,666	21.1	\$145,336	\$28,706	21.1	\$136,047	\$30,069	22.7	\$138,427	\$1,225,724
CLINIC KENNICOTT	\$173,665	112.1	\$154,920	384,527	112.1	\$343,021	\$99,886	112.1	\$89,104	\$106,378	112.1	\$148,419	\$0	0.0	\$0	\$1,824,456
CLINIC COLUMBIA	\$81,994	97.7	\$83,924	4,308	97.7	\$4,409	\$115,447	97.7	\$118,165	\$111,820	97.7	\$114,452	\$32,107	94.8	\$33,868	\$1,346,678
CLINIC WHEATLAND	\$78,545	62.8	\$125,072	70,388	62.8	\$112,083	\$191,004	62.8	\$304,146	\$663,504	62.8	\$1,058,535	\$625,761	55.1	\$1,135,682	\$1,620,201
CLINIC MALASPINA	\$12,878	36.3	\$35,477	2,222	36.3	\$8,121	\$139,958	36.3	\$305,559	\$24,219	36.3	\$66,719	\$107,033	45.4	\$235,756	\$1,206,310
CLINIC MATANUSKA	\$230,299	82.9	\$277,803	130,842	82.9	\$157,831	\$133,160	82.9	\$160,627	\$31,019	82.9	\$37,417	\$52,202	112.9	\$48,237	\$1,571,322
CLINIC STAKU	\$83,594	111.7	\$74,838	335,319	111.7	\$300,196	\$135,058	111.7	\$121,449	\$68,573	111.7	\$61,390	\$24,437	110.3	\$22,155	\$1,647,581
CLINIC TUSTUMENA	\$201,002	65.9	\$305,010	77,320	65.9	\$117,329	\$462,448	65.9	\$732,091	\$58,315	65.9	\$88,490	\$181,898	68.0	\$275,752	\$1,401,081
FISCAL YEAR TOTALS	\$940,227	655.2	\$144,418	1,307,249	655.2	\$199,519	\$1,652,232	655.2	\$252,172	\$1,289,204	655.2	\$186,765	\$1,093,235	570.1	\$191,762	\$8,288,172

	\$ Claims	FTEs
(5) YEAR TOTAL	6,288,147	3,100.9

	\$ Claims	FTEs
5 YEAR AVERAGE	\$1,257,629	638.2

	FTEs
Rate per 100 FTEs	\$197,065