

CS FOR SENATE BILL NO. 43(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATORS COGHILL, Stoltze, Egan

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to immunity for a fire department and employees or members of a fire**
2 **department."**

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

4 *** Section 1.** AS 09.65.070(c) is repealed and reenacted to read:

5 (c) An action for tort or breach of a contractual duty based on the act or
6 omission of an employee or member of a fire department in the execution of a function
7 for which the department is established may not be maintained against an employee or
8 member of a fire department. An action for tort or breach of a contractual duty based
9 on the act or omission of an employee or member of a fire department in the execution
10 of a function for which the department is established may not be maintained against a
11 fire department unless the action alleges intentional misconduct or gross negligence or
12 is based on the act or omission of an employee or member of a fire department in the
13 execution of a duty under contract with a private entity. In this subsection, "fire
14 department" means a fire department that is

- 1 (1) operated and maintained by a municipality or village; or
- 2 (2) registered with the state fire marshal and provides services under
- 3 contract or agreement with a municipality or village.

4 * **Sec. 2.** AS 09.65.070(d) is amended to read:

5 (d) **Notwithstanding (c) of this section, an** [AN] action for damages may not
 6 be brought against a municipality or any of its agents, officers, or employees if the
 7 claim

8 (1) is based on a failure of the municipality, or its agents, officers, or
 9 employees, when the municipality is neither owner nor lessee of the property
 10 involved,

11 (A) to inspect property for a violation of any statute, regulation,
 12 or ordinance, or a hazard to health or safety;

13 (B) to discover a violation of any statute, regulation, or
 14 ordinance, or a hazard to health or safety if an inspection of property is made;
 15 or

16 (C) to abate a violation of any statute, regulation, or ordinance,
 17 or a hazard to health or safety discovered on property inspected;

18 (2) is based **on** [UPON] the exercise or performance or the failure to
 19 exercise or perform a discretionary function or duty by a municipality or its agents,
 20 officers, or employees, whether or not the discretion involved is abused;

21 (3) is based **on** [UPON] the grant, issuance, refusal, suspension, delay,
 22 or denial of a license, permit, appeal, approval, exception, variance, or other
 23 entitlement, or a rezoning;

24 (4) is based on the exercise or performance during the course of
 25 gratuitous extension of municipal services on an extraterritorial basis;

26 (5) is based **on** [UPON] the exercise or performance of a duty or
 27 function upon the request of, or by the terms of an agreement or contract with, the
 28 state to meet emergency public safety requirements; or

29 (6) is based on the exercise or performance of a duty in connection
 30 with an enhanced 911 emergency system and is not based on an intentional act of
 31 misconduct or on an act of gross negligence.