

# FISCAL NOTE

Bill Version: CSHB 387 (HES)

(H) Publish Date: 4/5/00

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected All  
 Title \*An Act requiring governmental entities, .... before BRU  
 placing a substantial burden on a person's free exercise of religion Component \_\_\_\_\_  
 Sponsor Representative Croft  
 Requester House State Affairs Committee Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*****	*****	*****	*****	*****	*****

<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>						

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2000) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

CSHB 387 (HES) prohibits a school board or school district, a municipality, or a state agency from placing a substantial burden on a person's free exercise of religion unless the burden is in the form of a rule of general applicability and does not intentionally discriminate against religion or among religions, and application of the burden is essential to further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest. The bill further allows a person to bring a civil action against a school board or school district, a municipality, or a state agency for violating this section. The court may grant "appropriate relief."

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 Division Attorney General's Office Date/Time 3/29/00, 9:33 AM  
 Approved by Commissioner *Richard* Bruce M. Botelho, Attorney General Date 3/29/00  
 Agency Department of Law

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2000 LEGISLATIVE SESSION

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### ANALYSIS CONTINUATION

The Department of Law is unable to quantify the increased costs to the state that are likely to arise from passage of this legislation, but anticipates they will occur in the following areas:

Increased prisoner litigation: Prisoners are a very litigious group, and it is not unusual for them to "find religion" while incarcerated, and claim those beliefs are connected to a new or traditional religion. The inmates then wish to engage in religious practices or rituals that can cause serious security and administrative problems. Passage of this legislation will provide them with a new state remedy to pursue this type of litigation and experience indicates they will do so.

Increased time to defend cases: This bill potentially alters the standard the state must meet to justify the burden on an individual's religion. The state must show a compelling governmental interest, and use the least restrictive means when it substantially burdens religion. This is the most demanding test known in constitutional law. Cases will be more difficult to defend, requiring more legal resources.

Employee accommodation costs: This bill would apply to the state as an employer. The high standard of compelling governmental interest could require the state to provide more accommodation for employees' religious beliefs. These accommodations may come at a financial cost.

Damages: Under existing law, individuals who sue the state claiming their right to free exercise of religion has been infringed cannot seek damages from the state and have only limited ability to get damages from state officials under federal law. This bill may create a new civil action for damages, because damages are not specifically excluded from the appropriate relief the court may award. Providing for an award of damages may encourage more litigation in this area. At a minimum, it will make suits more time consuming and complicated, as the damages will have to be evaluated. The more significant fiscal impact, however, would be the damages themselves, should a plaintiff prevail.