

FISCAL NOTE

No. 2
 Bill Version: CSSB 114 (JUD)
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STATE OF ALASKA
 2000 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) _____	Dept. Affected <u>Law</u>
Title <u>"An Act relating to public officials and to impersonating a public servant."</u>	BRU <u>Civil Division</u>
Sponsor <u>Senator Taylor</u>	Component <u>Governmental Affairs</u>
Requester <u>Senate Finance Committee</u>	Component Serial No. <u>2207;2213</u>
	<u>Special Litigation</u>

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						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 CSSB 114 (JUD) adds operating a vehicle that is altered to look like a police or emergency vehicle, but is not such a vehicle, to the crime of impersonating a public servant. The bill further adds to the crime of official misconduct a public servant using their title, uniform, badge, or other identifying accoutrements of office or public funds, facilities, equipment, services or other government asset or resource for partisan political purposes. These provisions are not anticipated to have a fiscal impact on the Department of Law.

Section 6 of CSSB 114 (JUD), however, adds a new private cause of action which will increase the department's costs. The Department of Law is charged with enforcement of the Ethics Act, and deals with ethics issues and complaints on an on-going basis. Current law has not created a private damages cause of action for people to sue state employees over ethics violations.

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ANALYSIS CONTINUATION

If the Senate Judiciary Committee Substitute were adopted, it is likely that one or more of the ethics matters the department handles each year will invite such litigation. Our experience is that if a private cause of action is available, someone will use it. Defending public officials in this litigation would be a new cost to the state.

If the department believes an ethics violations has occurred, we may be able to avoid defending the public official, assuming the acts complained about are outside the course and scope of the official's employment, or amount to gross negligence or intentional misconduct. However, given the state's contractual obligation to defend and indemnify most state employees for things done in the course and scope of their employment, it is certainly foreseeable that the Department of Law would be asked to defend and indemnify this new type of litigation in some cases.

If the department does not believe that there was an ethics violation, there would be no conflict for it to defend the public official. In cases where the department does have a conflict (a situation which could arise if the ethics case is in preliminary stages or where the employee and the state have inconsistent defenses), we may have to hire more expensive outside counsel to defend the employee. What the fiscal impact to the Department of Law might be will depend on how many cases a year are filed, and who defends the public official. We have no way of estimating these variables, and cannot quantify the fiscal impact at this time.