

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 86
(H) Publish Date: 4/28/01

Revision Date/Time (Note if correction) _____ Dept. Affected _____
 Title False Claims and Improper Practice in Civil BRU Alaska Court System
Cases Component Trial Courts
 Sponsor Rep. Mulder
 Requester House Judiciary Component No. 768

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	48.1	48.1	48.1	48.1	48.1	48.1
Travel						
Contractual						
Supplies						
Equipment	17.7	17.7	17.7	17.7	17.7	17.7
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	65.8	65.8	65.8	65.8	65.8	65.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	65.8	65.8	65.8	65.8	65.8	65.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	65.8	65.8	65.8	65.8	65.8	65.8

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time	4	4	4	4	4	4
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See Attached Analysis

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 Division Alaska Court System Date/Time 4/28/01 11:06 AM
 Approved by: Stephanie J. Cole Date _____
 Agency Administrative Director

For distribution information, call the Governor's Legislative Office

Alaska Court System HB86 Fiscal Note Calculations

4/9/2001 Fiscal Note #1

Superior Court:

FY02

50 Jurors 1.5 Days for Selection	1,875
14 Jurors for 4.5 Days of Court	1,575
12 Jurors for 1.0 Days of Deliberation	300
Deliberation Meal \$11/12 jurors + bailiff	143
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Total per Superior Court Trial	3,893
Proposed # Superior Court Trials	4
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Estimated Cost of Superior Court Trials	<u>15,572</u>

District Court:

25 Jurors 1.0 Days for Selection	625
7 Jurors for 1.5 Days of Court	263
6 Jurors for .5 Days of Deliberation	75
Deliberation Meal \$11/6 jurors + bailiff	77
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Total per District Court Trial	1,040
Proposed # District Court Trials	2
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Estimated Cost of District Court Trials	<u>2,079</u>

Total Juror Costs	<u>17,700</u>
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Superior Court Judge (3 months)	20,489
District Court Judge (2 months)	13,660
In-Court Clerk (2.5 months)	8,750
In-Court Clerk (1.5 months)	5,250
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Court Personal Services	<u>48,149</u>

48,100

Fiscal Note Total	65,800
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Fiscal Note No. 1
Alaska Court System
Fiscal Analysis
HB 86

House Bill 86 creates civil liability for actions that it describes as false claims and improper practice in civil cases. Section 1 of the bill essentially codifies Civil Rule 11, with three primary differences. First, CR 11 allows a judge to impose sanctions in a case in which improper practice took place, whereas HB 86 would authorize the aggrieved party to file a separate case before a separate judge, to be heard subsequent to the initial case. Any claim that the second case involved improper practice would result in a third case, and so on.

Second, by allowing a civil action for improper practice, HB 86 essentially makes financial sanctions (in the form of compensatory and/or punitive damages) for such behavior mandatory. This differs from CR 11, which gives the judge discretion in imposing sanctions (these might include financial sanctions, exclusion or admission of disputed evidence, extension or limitation of discovery, etc.). The federal courts began requiring mandatory sanctions for improper practice in 1983. This rule generated a dramatic increase in claims, and as a result, the federal courts repealed the requirement in 1993. Federal sanctions are once again discretionary.

Third, if a party makes a false statement of a material fact the trier of fact must enter judgment against that party on the issue to which the false statement relates. This differs from CR 11, which gives the judge discretion to dismiss a case or impose lesser sanctions if appropriate under the circumstances. As noted above, the federal experience suggests that mandatory sanctions actually increase caseloads.

While potentially beneficial for certain litigants, we believe that this legislation will result in a net increase in the number of cases before the courts. Had HB 86 been in effect in FY 00 it would have applied to over 8,000 civil cases in superior court, and roughly 15,000 civil cases in district court. If only 2.5 percent of those cases had resulted in a civil action for frivolous practice (either by the defendant or the plaintiff), there would have been roughly 575 new cases filed. If only 2.5 percent of those had resulted in a trial, there would have been 15 new trials. This note provides for the judicial time, clerical costs, and jury fees necessary to cover those additional trials.

This fiscal note does not take into account the additional motion practice that will occur in those new cases that are filed but settle prior to trial. It also does not reflect the additional time required to deal with motions filed in the underlying case that relate to having the trier of fact find that one party has made a false statement of material fact. Attorneys can be expected to be aggressive in their use of HB 86 as a new tool to pressure the opposing party into settling a case on their terms. More filings and more motion practice in existing cases will result in additional judicial time, as well as increased clerical costs.