

**HOUSE JOURNAL
SUPPLEMENT**

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**SECTIONAL ANALYSIS
FOR SCS HB 375(JUD)
2002 REVISOR'S BILL**

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LEGAL SERVICES
DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

MEMORANDUM

May 8, 2002

SUBJECT: SCS HB 375(JUD) (2002 Revisor's Bill)

TO: Representative Joe Green
Legislative Council

FROM: Pamela Finley
Revisor of Statutes

The following is a sectional analysis of SCS HB 375(JUD) (the 2002 revisor's bill). The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

. . . shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of any portion of the statute law of this state.

To assist the reader in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

Sections that delete, repeal, or update obsolete provisions: Sections 9, 11, 12, 14, 15, 16, and 17 amend or repeal provisions that have become obsolete through time or other legislative action.

Sections that correct errors or oversights: Sections 2-7 and 13 correct errors or oversights.

Sections that improve the form or substance of the law: Sections 1, 8, and 10 propose amendments to improve the form or substance of the statutory law of Alaska.

SECTIONAL ANALYSIS

Bill section 1 amends AS 01.10.070(d) to set out the effective date of an Act having a definite effective date specified in the bill, when the governor signs the bill (or it otherwise becomes law) after the specified effective date. The added language would indicate that the bill becomes law on the day after it is signed by the governor (or otherwise becomes law). For example, if a bill had a July 1 effective date, but was not signed until July 3, the actual effective date of the bill would be July 4. The reasoning is that a bill cannot be effective until all the required constitutional steps have occurred and that using the next day after signature in such cases comes as close as possible to the effective date intended by the legislature. This has been the practice while I have been revisor, and my predecessor informed me that this was the way he interpreted such effective dates. See sec. 132, ch. 103, SLA 1995; sec. 98(c), ch. 61, SLA 2001; and sec. 21, ch. 63, SLA 2001. (As a matter of practice, I also have not indicated that such sections are retroactive to the specified effective date because AS 01.10.090 states that no statute is retrospective unless expressly declared therein. Also, retroactivity may, in some circumstances, be unconstitutional. However, the amendment proposed in bill section 1 would not necessarily prevent a court from finding implied retroactivity in a given case because the proposed amendment addresses only the effective date, which is conceptually different from retroactivity.) I have been informed that litigation has been filed concerning the effective date of secs. 10-13 of ch. 63, SLA 2001 (where the governor signed the bill after the specified effective date), with the defendant claiming that those sections were effective 90 days after the governor signed the bill rather than one day after the signing. That case will be decided on the law in effect at the time, but this bill section attempts to clarify the rule for future situations.

Bill section 2 amends AS 14.48.190 to change "commissioner" to "commission". AS 14.48.150 requires certain records to be deposited

with the commission (on postsecondary education), not with a commissioner.

Bill section 3 amends AS 15.20.207(g) to require a certificate for the questioned ballot counting board to be returned to the director by the 16th, rather than the 11th, day following the election. In sec. 53, ch. 82, SLA 2000, the time by which the district questioned ballot counting board was required to certify the questioned ballot totals was changed from the 10th day after the election to the 15th day after the election. The equivalent change should have been made in AS 15.20.207(g), but was not. This bill section corrects that oversight.

Bill section 4 corrects an error in ch. 103, SLA 2001. This law amended AS 15.25.190 to provide that people nominated by petition would be put on the general election ballot, not, as was formerly the case, on the primary ballot. Unfortunately, ch. 103 did not make the same change in AS 15.25.180(a)(10). This section corrects that error.

Bill section 5 amends AS 16.43.160(f) to correct an inaccurate U.S. Code reference to the federal food stamp program.

Bill section 6 amends AS 18.56.300(b) by substituting "registered under AS 08.48" for "licensed under AS 08.48". AS 08.48 authorizes registration, not licensing, of architects, engineers, land surveyors, and landscape architects.

Bill section 7 amends AS 23.30.017(c) by substituting "registered under AS 08.48" for "licensed under AS 08.48". AS 08.48 authorizes registration, not licensing, of architects, engineers, land surveyors, and landscape architects.

Bill section 8 amends AS 33.32.017(d) to delete the phrase "the sum of". The phrase is inaccurate because the subsection requires the multiplication of two numbers.

Bill section 9 deletes from AS 35.15.080(f), a reference to AS 36.10.010, which was repealed in 1986. (I am planning on also deleting the references to schools in this subsection in next year's revisor's bill. This error, which appears in numerous sections in

HOUSE JOURNAL SUPPLEMENT

No. 10

August 14, 2002

AS 35, was discovered too late to be included in this year's bill.)

Bill section 10 substitutes "James Dalton Highway" for "highway" in AS 35.40.010. Originally, AS 35.40.010 was in AS 19.40, a chapter in which "highway" refers to the James Dalton Highway. The section was renumbered in 1982. The amendment in this bill section clarifies the highway to which the section refers.

Bill sections 11 and 12 change the U.S. Code citations to the Older Americans Act in statutes that authorize the Alaska Commission on Aging to administer and set policy for the administration of the federal programs as provided under the Older Americans Act. The amendment would expand the citation to include the Older American Community Service Employment Program, Grants for Native Americans, Allotments for Vulnerable Elder Rights Protection activities, and Native American Organization provisions, all of which are now part of the federal Program for Older Americans. These amendments are based on the assumption that the legislature intended the Commission on Aging to have authority over the federal program in general, not just specific subsets of it. However, because the federal citation includes a program that is administered by the federal government, the House, at my request, adopted a floor amendment also adding the phrase "subject to state control" following "federal programs".

Bill section 13 substitutes "AS 45.29" for "AS 45.09.101 - 45.09.507" in AS 45.02.401. This corrects an oversight in ch. 113, SLA 2000, which repealed AS 45.09 and enacted AS 45.29 in its stead.

Bill section 14 substitutes "AS 46.03.250 - 46.03.313" for "AS 46.03.250 - 46.03.314" in AS 46.03.760(a). AS 46.03.314 was repealed in 1991.

Bill section 15 amends AS 47.05.012, concerning incorporation by reference by the Department of Health and Social Services, to change "HCIA, Inc." to "Solucient". Due to a merger, Solucient has replaced HCIA, Inc. Also, the "Agency for Health Care Policy and Research" is changed to the "Agency for Healthcare Research and Quality" due to a name change of that organization.

HOUSE JOURNAL SUPPLEMENT

August 14, 2002

No. 10

Bill section 16 repeals AS 36.10.006 and AS 18.55.934(b). AS 36.10.006 states the legislative purpose in adopting AS 36.10.010. Because AS 36.10.010 was repealed in 1986, AS 36.10.006 is superfluous. AS 18.55.934(b) refers to a special fund for the 1964 earthquake. The Legislative Finance Division confirms that the fund no longer exists, except in the reference in AS 18.55.934(b).

Bill section 17 repeals temporary law provisions in two different Acts.

Sections 1-18, ch. 99, SLA 1985 contain provisions for the longevity bonus (section 1) and a permanent fund dividend annuity (sections 2-18). Under sections 25 and 26, ch. 99, SLA 1985, section 1 would take effect when sections 2-18 were repealed, and sections 2-18 would take effect when section 1 was repealed. Since the legislature has not chosen to "activate" either alternative in the last 16 years and has in the meantime amended both the longevity bonus program and the permanent fund dividend program so substantially that sections 1-18 of ch. 99, SLA 1985 would have to be rewritten even if the legislature did decide to adopt the policy in section 1 or sections 2-18, all the relevant sections are proposed for repeal.

Chapter 148, SLA 1990 authorized a land exchange between the University of Alaska and the Department of Natural Resources of certain land in the Kenai River Special Management Area (Slikok Creek area). Several years ago, an employee at the Dept. of Natural Resources informed me that the land exchange did not happen and that the DNR is no longer pursuing the land exchange. After several more years of inaction, I am proposing that this Act be repealed.

Section 18 gives the bill an immediate effective date.

Attached hereto is the text of AS 36.10.006 and AS 18.55.934(b), which are proposed for repeal.

TEXT OF PROVISIONS PROPOSED FOR REPEAL

AS 36.10.006:

Sec. 36.10.006. Statement of purpose.

HOUSE JOURNAL SUPPLEMENT

No. 10

August 14, 2002

The legislature adopted AS 36.10.010 in response to problems and concerns identified by the findings of facts in AS 36.10.005 to

(1) ensure that qualified resident workers do not remain unemployed while nonresident workers are employed on construction projects funded by the state or a political subdivision of the state if the purpose of the project includes reducing the unemployment of residents;

(2) ensure that qualified resident workers do not remain unemployed while nonresident workers are employed on construction projects funded by the state or a political subdivision of the state;

(3) reduce the level of unemployment among residents of the state.

AS 18.55.934(b)

(b) The governor may expend money from the natural disaster recovery fund of 1964 for state grants-in-aid provided for in (a) of this section.