

Introduced: 1/31/73
Referred: Local Government
and Judiciary

1 IN THE HOUSE

BY HUBER

2 HOUSE BILL NO. 162

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to actionable claims against home
7 rule or general law municipalities."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 09.50.250 is amended to read:

10 ARTICLE 4. CLAIMS AGAINST STATE OR A HOME RULE OR
11 GENERAL LAW MUNICIPALITY.

12 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE OR A HOME RULE
13 OR GENERAL LAW MUNICIPALITY. A person or corporation having a contract,
14 quasi-contract, or tort claim against the state or a home rule or general
15 law municipality may bring an action against the state or a home rule or
16 general law municipality in the superior court. A person who may present
17 his claim under AS 44.77.010 - 44.77.060 may not bring an action under
18 this section except as set out in AS 44.77.040(c). However, no action
19 may be brought under this section if the claim

20 (1) is an action for tort, and is based upon an act or
21 omission of an employee of the state, or of a home rule or general law
22 municipality, exercising due care, in the execution of a statute or
23 regulation, or ordinance, whether or not the statute or regulation or
24 ordinance is valid; or is an action for tort, and based upon the
25 exercise or performance or the failure to exercise or perform a dis-
26 cretionary function or duty on the part of a state agency or an employee
27 of the state, or an employee of a home rule or general law municipality,
28 whether or not the discretion involved is abused;

29 (2) is for damages caused by the imposition or establishment

1 of a guarantime by the state or a home rule or general law municipality;

2 (3) arises out of assault, battery, false imprisonment, false
3 arrest, malicious prosecution, abuse of process, libel, slander, mis-
4 representation, deceit, or interference with contract rights.

5 * Sec. 2. AS 09.50.260 is amended to read:

6 Sec. 09.50.260. UNDERTAKING. At the time of filing the complaint
7 in an action against the state or a home rule or general law municipality,
8 the plaintiff shall file an undertaking in a sum fixed by the court.
9 The undertaking shall be conditioned upon payment by the plaintiff of
10 costs incurred by the state or a home rule or general law municipality
11 in the action if the plaintiff fails to prosecute the action or fails
12 to recover judgment.

13 * Sec. 3. AS 09.50.270 is amended to read:

14 Sec. 09.50.270. PAYMENT OF JUDGMENT AGAINST THE STATE OR A HOME
15 RULE OR GENERAL LAW MUNICIPALITY. No attachment or execution shall
16 issue against the state or a home rule or general law municipality.
17 When a final judgment is rendered against the state in an action, the
18 clerk of the court shall immediately transmit a certified copy of the
19 judgment to the Department of Administration which shall either approve
20 payment of the judgment against the state if a sufficient appropriation
21 exists for payment, or audit the amount and transmit a copy to the
22 legislature with the recommendation that an appropriation be made for
23 its payment. When a final judgment is rendered against a home rule or
24 general law municipality in an action, the clerk of the court shall im-
25 mediately transmit a certified copy of the judgment to the assembly or
26 council of the municipality, as appropriate, which shall either approve
27 payment of the judgment against the municipality, if sufficient funds
28 exist, or audit the amount and transmit a copy to the assembly or
29 council, as appropriate, with the recommendation that an appropriation

1 be made for its payment.

2 * Sec. 4. AS 09.50.280 is amended to read:

3 Sec. 09.50.280. JUDGMENT FOR PLAINTIFF. If judgment is rendered
4 for the plaintiff, it shall be for the legal amount found due from the
5 state or a home rule or general law municipality with legal interest
6 from the date it became due and without punitive damages.

7 * Sec. 5. AS 09.50.290 is amended to read:

8 Sec. 09.50.290. TRIAL BY COURT. Actions against the state or a
9 home rule or general law municipality under secs. 250 - 300 of this
10 chapter shall be tried by the court without a jury.

11 * Sec. 6. AS 09.50.300 is amended to read:

12 Sec. 09.50.300. COMPROMISE BY ATTORNEY GENERAL OR MUNICIPAL
13 ATTORNEY. The attorney general or in the case of a home rule or general
14 law municipality, the municipal attorney may, with the approval of the
15 court, arbitrate, compromise, or settle any action filed under secs.
16 250 - 300 of this chapter.

17 * Sec. 7. AS 09.65.070 is amended to read:

18 Sec. 09.65.070. SUITS AGAINST INCORPORATED UNITS OF LOCAL GOVERN-
19 MENT. Except as provided in AS 09.50.250 - 09.50.300, an [AN] action
20 may be maintained against an incorporated borough, city, or other public
21 corporation of like character in its corporate character and within the
22 scope of its authority, or for an injury to the rights of the plaintiff
23 arising from some act or omission of the unit of local government.