

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 445

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to claims against the state and
7 against state employees; and providing for an
8 effective date."

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

10 * Section 1. AS 09.50 is amended by adding a new section to read:

11 Sec. 09.50.255. STATE EMPLOYEE IMMUNITY FROM LEGAL LIABILITY.

12 (a) If an employee or former employee of the state requests the
13 state to defend him in a legal action in which he is a defendant for
14 and injury arising out of an act or omission occurring within the
15 scope of his employment as an employee of the state and the request is
16 made in writing not less than 30 days before the day of trial and the
17 employee or former employee cooperates in good faith in the defense
18 of the action, the state shall pay a judgment based on the action or
19 a compromise or settlement of the action to which the state has agreed,
20 provided that the act or omission which is the basis of the legal
21 action was not due to fraud, corruption or malice of the employee.

22 (b) The state shall only pay that part of the claim or judgment
23 which is for compensatory damages, whether general or special, and not
24 for punitive or exemplary damages.

25 (c) If an employee or a former employee of the state pays a claim
26 or judgment against him for an injury arising out of an act or omission
27 occurring within the scope of his employment as an employee of the
28 state and he has complied with the requirements stated in (a) of this
29 section, he is entitled to recover the amount of the payment from the

1 state as limited by (b) of this section.

2 (d) If the state pays a claim or judgment, or a portion of a
3 claim or judgment, either against itself or against an employee or
4 former employee of the state for an injury arising out of an act or
5 omission occurring within the scope of employment of the employee,
6 the state may recover from the employee or former employee, the amount
7 of the payment if he acted or failed to act because of an actual fraud,
8 corruption or act of malice or if he wilfully failed or refused to
9 cooperate in good faith in the defense of the action.

10 (e) If the state pays a claim or judgment, or a portion of a
11 claim or judgment, either against itself or against an employee or
12 former employee of the state for an injury arising out of an act or
13 omission occurring within the scope of employment of the employee and
14 the employee did not act or fail to act because of actual fraud,
15 corruption or malice; and the employee cooperated in good faith in
16 the defense of the action, the employee or former employee is not liable
17 to indemnify the state for payments which represent compensatory
18 damages, whether general or special, but is liable to indemnify the
19 state for payments which represent punitive or exemplary damages.

20 * Sec. 2. AS 09.50.290 is repealed.

21 * Sec. 3. This Act takes effect on the day after its passage and
22 approval or on the day it becomes law without approval.
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