

1 IN THE SENATE

BY CHANCE AND RODEY

2 SENATE BILL NO. 192

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to contract claims against the state."

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

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

9 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person
10 or corporation having a contract, quasi-contract, or tort claim against
11 the state may bring an action against the state in the superior court.
12 A person who may present his claim under AS 44.77.010 - 44.77.060 may
13 not bring an action under this section except as set out in AS 44.77.-
14 020(e) [AS 44.77.040(c)]. However, no action may be brought under this
15 section if the claim

16 (1) is an action for tort, and is based upon an act or omission
17 of an employee of the state, exercising due care, in the execution of a
18 statute or regulation, whether or not the statute or regulation is valid;
19 or is an action for tort, and based upon the exercise or performance or
20 the failure to exercise or perform a discretionary function or duty on
21 the part of a state agency or an employee of the state, whether or not
22 the discretion involved is abused;

23 (2) is for damages caused by the imposition or establishment
24 of a quarantine by the state;

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

28 * Sec. 2. AS 44.77.020 is repealed and re-enacted to read:

29 Sec. 44.77.020. DISALLOWANCE OF CLAIMS. (a) If the administrative

1 or executive officer disallows all or part of the claim, the claimant
2 may obtain a review of the officer's action by applying within 60 days
3 to the state Board of Contract Appeals, at Juneau, in writing.

4 (b) When the application is made, the officer who disallowed the
5 claim shall transmit the claim and all papers and memoranda relating
6 to the claim to the state Board of Contract Appeals.

7 (c) When it receives the claim, papers, and memoranda, the state
8 Board of Contract Appeals shall re-examine the merits of the claim.

9 (d) The state Board of Contract Appeals may adopt procedure
10 consistent with law, and shall make its decision affirming, modifying
11 or reversing the action of the officer. The decision must be written.
12 A copy of the decision, and the reasoning, shall be supplied to the
13 claimant.

14 (e) If the claimant does not accept the decision of the board, he
15 may bring an action under AS 09.50.250 - 09.50.300 if he brings it with-
16 in 30 days after he receives notice of the decision of the department.
17 A claimant may also bring an action under AS 09.50.250 - 09.50.300 at
18 any time after one year has elapsed since the presentation of his claim
19 under sec. 10 of this chapter, if no decision has been made by the
20 department.

21 * Sec. 3. AS 44.77.050 is repealed and re-enacted to read:

22 Sec. 44.77.050. AUTHORITY OF THE BOARD. The state Board of Contract
23 Appeals may hear witnesses on a question of fact involved in an appeal
24 and may authorize the deposition of an absent witness to be taken. The
25 board may adopt regulations governing proceedings on appeal, and may
26 administer oaths to witnesses appearing before it. False testimony
27 before the board is perjury.

28 * Sec. 4. AS 44.77.060 is repealed and re-enacted to read:

29 Sec. 44.77.060. REQUEST FOR ATTORNEY GENERAL'S OPINION. The state

1 Board of Contract Appeals may request written opinions from the attorney
2 general.

3 * Sec. 5. AS 44 is amended by adding a new chapter as follows:

4 CHAPTER 58. BOARD OF CONTRACT APPEALS.

5 Sec. 44.58.010. CREATION OF BOARD. There is created the state
6 Board of Contract Appeals. The board is composed of three members,
7 each of whom shall be a graduate of a law school approved by the
8 American Bar Association and a member of the Alaska Bar or an attorney
9 in good standing in the bar of another state. Members shall be appointed
10 by the governor.

11 Sec. 44.58.020. TERMS OF OFFICE. The term of each member is one
12 year.

13 Sec. 44.58.030. POWERS OF THE BOARD. The board shall:

14 (1) adopt rules and regulations necessary to make this chapter
15 effective;

16 (2) make available, upon request, copies of this chapter and
17 the regulations adopted for administering it;

18 (3) keep a record of its proceedings including the names of
19 all persons testifying; these records shall be open to public inspection
20 at reasonable times as determined by the board.

21 Sec. 44.58.040. DUTIES OF THE BOARD. Notwithstanding any other
22 provision of law the board shall hear all appeals from contracting
23 officers' decisions on contractor's claims arising from contracts with
24 the state, including the University of Alaska, the Alaska State Housing
25 Authority, and any other public corporation created by the state;
26 decisions of the board are subject to appeal to the superior court. The
27 board shall also hear appeals from municipal contracts under sec. 70 of
28 this chapter.

29 Sec. 44.58.050. ADMINISTRATIVE PROCEDURE ACT. Rules and regulations

1 adopted under this chapter are subject to the provisions of the
2 Administrative Procedure Act (AS 44.62).

3 Sec. 44.58.060. BOARD SALARIES AND EXPENSE. Members of the board
4 receive a salary of \$10,000 annually and shall be reimbursed for their
5 actual expenses.

6 Sec. 44.58.070. MUNICIPAL CONTRACTS. Municipalities may avail
7 themselves of the services of the state Board of Contract Appeals if
8 such a procedure is made a condition of the contract. A municipality
9 including this clause in its contract shall mail a copy of each such
10 contract to the board immediately following execution.

11 * Sec. 6. AS 44.77.030, 44.77.040, and 44.77.070 are repealed.
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