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Affairs and Judiciary

BY RAY, BUTROVICH, COLLETTA,
FERGUSON, HOHMAN, KERTTULA,
MELAND, SUMNER, ZIEGLER

1 IN THE SENATE

2 SENATE BILL NO. 249 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to suits against local governments;
7 and providing for an effective date."

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

9 * Section 1. AS 09.65.070(a) and (b) are amended to read:

10 (a) Except as provided in this section, an [AN] action may be
11 maintained against a municipality [AN INCORPORATED BOROUGH, CITY, OR
12 OTHER PUBLIC CORPORATION OF LIKE CHARACTER] in its corporate character
13 and within the scope of its authority [, OR FOR AN INJURY TO THE RIGHTS
14 OF THE PLAINTIFF ARISING FROM SOME ACT OR OMISSION OF THE UNIT OF LOCAL
15 GOVERNMENT].

16 (b) A municipality [AN INCORPORATED BOROUGH, CITY OR OTHER POLITI-
17 CAL SUBDIVISION] may not require a person to post bond as a condition to
18 bringing a cause of action against it [THE INCORPORATED BOROUGH, CITY OR
19 OTHER POLITICAL SUBDIVISION].

20 * Sec. 2. AS 09.65.070(c) is repealed and re-enacted to read:

21 (c) No action may be maintained against an employee or member of a
22 fire department operated and maintained by a municipality or village if
23 the claim is an action for tort or breach of a contractual duty and is
24 based upon the act or omission of the employee or member of the fire
25 department in the execution of a function for which the department is
26 established.

27 * Sec. 3. AS 09.65.070 is amended by adding new subsections to read:

28 (d) No action for damages may be brought against a municipality or
29 any of its agents, officers or employees if the claim

1 (1) is based on a failure of the municipality, or its agents,
2 officers, or employees, when the municipality is neither owner nor
3 lessee of the property involved,

4 (A) to inspect property for a violation of any statute,
5 regulation or ordinance, or a hazard to health or safety;

6 (B) to discover a violation of any statute, regulation,
7 or ordinance, or a hazard to health or safety if an inspection of
8 property is made; or

9 (C) to abate a violation of any statute, regulation or
10 ordinance, or a hazard to health or safety discovered on property
11 inspected;

12 (2) is based upon the exercise or performance or the failure
13 to exercise or perform a discretionary function or duty by a munici-
14 pality or its agents, officers, or employees, whether or not the dis-
15 cretion involved is abused;

16 (3) is based upon the grant, issuance, refusal, suspension,
17 delay or denial of a license, permit, appeal, approval, exception,
18 variance, or other entitlement, or a rezoning;

19 (4) is based on the exercise or performance during the course
20 of gratuitous extension of municipal services on an extraterritorial
21 basis; or

22 (5) is based upon the exercise or performance of a duty or
23 function upon the request of, or by the terms of an agreement or con-
24 tract with, the state to meet emergency public safety requirements.

25 (e) In this section

26 (1) "municipality" means a home rule borough or city, a
27 general law borough or city of any class, a unified municipality estab-
28 lished under AS 29.68.240 - 29.68.440, or a municipality established by
29 merger or consolidation under AS 29.68.030 - 29.68.110; the term in-

1 cludes a public corporation established by a municipality;

2 (2) "village" means an unincorporated community where at
3 least 25 people reside as a social unit.

4 * Sec. 4. This Act applies to all legal actions filed after the effective
5 date of this Act.

6 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
7 070(c).

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