Introduced: 2/17/89
Referred: Labor & Commerce
and Judiciary

6-0807A

1 IN THE HOUSE BY SHULTZ AND MILLER

2 HOUSE BILL NO. 184

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state competition with private
7 businesses."

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

9 * Section 1. AS 45.50 is amended by adding new sections to read:

10 ARTICLE 9. STATE COMPETITION WITH PRIVATE BUSINESSES.

11 Sec. 45.50.950. STATE POLICY. Unless it is clearly in the
12 public's best interest, the state may not compete with legally estab-
13 lished private businesses when offering a comparable level of goods or
14 services to the public.

15 Sec. 45.50.952. COMPLAINTS. If a person believes that the state
16 has violated AS 45.50.950, the person may file a complaint with the
17 office of the ombudsman. If the ombudsman finds that the state vi-
18 olated AS 45.50.950, the person may file a complaint for damages, and
19 injunctive relief if necessary, in the superior court if the person's
20 business has been damaged by the state's violation.

21 Sec. 45.50.954. COURT PROCEDURE. (a) When a complaint is filed
22 under AS 45.50.952, the court shall determine whether the complainant
23 has the standing necessary to bring the action.

24 (b) If the court determines that the complainant has the stand-
25 ing necessary to bring the action, the court shall review the ombuds-
26 man's decision.

27 (c) The burden of proof is on the state to prove that it com-
28 plied with AS 45.50.950. If the state fails to provide clear and
29 convincing evidence that it complied with AS 45.50.950, the court may

1 award the plaintiff the damages and injunctive relief that the court
2 determines to be appropriate.
3 Sec. 45.50.956. APPEAL. (a) The final judgment of the court
4 under AS 45.50.954 may be appealed to the supreme court by the state
5 or the plaintiff.
6 (b) If the judgment is not appealed and the court has awarded
7 damages to the plaintiff under AS 45.50.954(c), the state shall pay
8 the damages to the plaintiff within 30 days after the date shown in
9 the clerk's certificate of distribution.
10 (c) If the decision is appealed, the supreme court may increase
11 the damages awarded by the superior court if the supreme court finds
12 that the plaintiff has suffered additional damages from the noncompli-
13 ance between the date of the superior court's judgment and the date of
14 the supreme court's decision.
15 (d) If the supreme court upholds the superior court's decision,
16 the state shall pay the damages immediately to the complainant.