

HOUSE CS FOR SENATE BILL NO. 365(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/10/94
Referred: Rules

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act amending, and repealing laws providing for state agency functions and
2 services related to transportation and capital improvement planning, workers'
3 compensation, motor vehicles and motor vehicle insurance, medical care for
4 prisoners, state building leases, and review and approval of water and sewer
5 systems, for the purpose of reducing state government expenditures; and providing
6 for an effective date."

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

8 * Section 1. AS 19.10.160 is amended to read:

9 Sec. 19.10.160. STANDARD DRAWINGS [PLANS] AND
10 SPECIFICATIONS. The department may [SHALL] prepare and adopt uniform
11 standard drawings [PLANS] and specifications for the establishment and [,]
12 construction [, AND MAINTENANCE] of highways in the state. The department may
13 amend the drawings [PLANS] and specifications as it considers advisable. [THE

1 STANDARDS MUST CONFORM AS CLOSELY AS PRACTICABLE TO THOSE
2 ADOPTED BY THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND
3 TRANSPORTATION OFFICIALS.]

4 * Sec. 2. AS 23.30.041(e) is amended to read:

5 (e) An employee shall be eligible for benefits under this section upon the
6 employee's written request and by having a physician predict that the employee will
7 have permanent physical capacities that are less than the physical demands of the
8 employee's job as described in the United States Department of Labor's "Selected
9 Characteristics of Occupations Defined in the Revised Dictionary of Occupational
10 Titles" for

11 (1) the employee's job at the time of injury; or

12 (2) other jobs that exist in the labor market that the employee has held
13 or received training for within 10 years before the injury or that the employee has held
14 following the injury for a period long enough to obtain the skills to compete in the
15 labor market, according to specific vocational preparation codes as described in the
16 United States Department of Labor's "Selected Characteristics of Occupations Defined
17 in the Revised Dictionary of Occupational Titles."

18 * Sec. 3. AS 23.30.095(k) is amended to read:

19 (k) In the event of a medical dispute regarding determinations of causation,
20 medical stability, ability to enter a reemployment plan, degree of impairment,
21 functional capacity, the amount and efficacy of the continuance of or necessity of
22 treatment, or compensability between the employee's attending physician and the
23 employer's independent medical evaluation, a second independent medical evaluation
24 shall be conducted by a physician or physicians selected by the board or its designee
25 from a list established and maintained by the board and its designee. The cost of the
26 examination and medical report shall be paid by the employer. The report of the
27 independent medical examiner shall be furnished to the board and to the parties within
28 14 days after the examination is concluded. A person may not seek damages from an
29 independent medical examiner caused by the rendering of an opinion or providing
30 testimony under this subsection, except in the event of fraud or gross incompetence.

31 * Sec. 4. AS 23.30.190(b) is amended to read:

1 (b) All determinations of the existence and degree of permanent impairment
2 shall be made strictly and solely under the whole person determination as set out in
3 the current edition of the American Medical Association Guides to the Evaluation of
4 Permanent Impairment at the time of the impairment rating, except that an
5 impairment rating may not be rounded to the next five percent. The board shall adopt
6 a supplementary recognized schedule for injuries that cannot be rated by use of the
7 American Medical Association Guides.

8 * Sec. 5. AS 28.05.061(c) is amended to read:

9 (c) The commissioner and officers and employees of the department designated
10 by the commissioner shall, upon request, prepare under the seal of the department and
11 deliver, unless otherwise prohibited by law, a certified copy of any record of the
12 department maintained under this title or regulations adopted under this title, charging
13 a fee for each certified copy. A certified copy, or an electronic record certified by
14 the department, is admissible in a proceeding in a court in the same manner as the
15 original document.

16 * Sec. 6. AS 28.05.121 is amended to read:

17 Sec. 28.05.121. GIVING OF NOTICE. When the department is authorized or
18 required to give notice under this title or regulations adopted under this title, unless a
19 different method of giving notice is otherwise expressly provided, notice shall be given
20 by a qualified person, either by personal delivery to the person to be notified or by
21 first class [REGISTERED OR CERTIFIED] mail, [RETURN RECEIPT
22 REQUESTED,] addressed to the person at the address of the person as shown in the
23 electronic records of the department. The giving of notice by mail is considered
24 complete upon placing the notice in a United States Post Office receptacle, with
25 appropriate postage [THE RETURN OF THE RECEIPT OR UPON RETURN OF
26 THE NOTICE AS UNDELIVERABLE, REFUSED, OR UNCLAIMED]. Proof of the
27 giving of notice in either manner may be made by the affidavit of the person giving
28 the notice by personal delivery or by mail, naming the person to whom the notice was
29 given and specifying the time, place, and manner of giving the notice.

30 * Sec. 7. AS 28.05.141(b) is amended to read:

31 (b) A hearing ordered under (a) of this section shall be held telephonically at

1 a time and date set by [AT THE OFFICE OF] the department, except that if the
2 department determines that an in-person hearing is necessary to determine factual
3 issues, the department may order that the hearing be conducted in person at a
4 place, time, and date set by the department [NEAREST TO THE RESIDENCE OF
5 THE PERSON REQUESTING THE HEARING UNLESS THE DEPARTMENT AND
6 THE PERSON AGREE THAT THE HEARING IS TO BE HELD ELSEWHERE].
7 The department may [SHALL] grant a hearing delay only if the person shows, to the
8 satisfaction of the department, [PRESENTS] good cause for the delay that is beyond
9 the control of the person. If a person fails to appear for the hearing at the time and
10 place stated by the department and if a hearing delay has not been granted, the
11 person's failure to appear is considered a waiver of the hearing and the department
12 may take appropriate action with respect to the person.

13 * Sec. 8. AS 28.10.031(b) is amended to read:

14 (b) A licensed vehicle dealer may issue to the purchaser of a vehicle sold by
15 the dealer a temporary permit to drive the vehicle. A permit is effective for a period
16 not to exceed 60 [30] days. The commissioner shall adopt regulations governing the
17 issuance of permits under this section.

18 * Sec. 9. AS 28.10.108(c) is amended to read:

19 (c) A vehicle subject to registration [AND NOT DESCRIBED IN (b) OF THIS
20 SECTION] shall have its initial registration, and may have its annual registration,
21 renewed in the month of initial registration in the state, subject to the provisions of (f)
22 of this section.

23 * Sec. 10. AS 28.15.166(e) is amended to read:

24 (e) The [NOTWITHSTANDING AS 28.05.141(b), THE] hearing under this
25 section shall be held telephonically at a time and date set by [AT THE OFFICE OF]
26 the department, except that if the department determines that an in-person hearing
27 is necessary to determine factual issues, the department may order that the
28 hearing be conducted in person at a place, time, and date set by the department
29 [NEAREST TO THE RESIDENCE OF THE PERSON REQUESTING THE
30 HEARING UNLESS

31 (1) A DISTRICT COURT JUDGE OR A MAGISTRATE HAS BEEN

1 DESIGNATED AS A HEARING OFFICER IN THE MATTER BY THE
2 COMMISSIONER; OR

3 (2) THE DEPARTMENT AND THE PERSON AGREE THAT THE
4 HEARING IS TO BE HELD ELSEWHERE].

5 * Sec. 11. AS 28.15.166(f) is amended to read:

6 (f) A review under this section shall be held before a hearing officer
7 designated by the commissioner. [UPON THE CONSENT OF THE
8 ADMINISTRATIVE DIRECTOR OF THE STATE COURT SYSTEM, THE
9 COMMISSIONER MAY DESIGNATE A DISTRICT COURT JUDGE OR A
10 MAGISTRATE TO SERVE AS THE HEARING OFFICER.] The hearing officer shall
11 have authority to

12 (1) administer oaths and affirmations;

13 (2) examine witnesses and take testimony;

14 (3) receive relevant evidence;

15 (4) issue subpoenas, take depositions, or cause depositions or
16 interrogatories to be taken;

17 (5) regulate the course and conduct of the hearing;

18 (6) make a final ruling on the issue.

19 * Sec. 12. AS 28.20.050(a) is amended to read:

20 (a) The provisions of this chapter requiring deposit of security and suspension
21 for failure to deposit security apply to the driver and owner of a vehicle subject to
22 registration under the laws of this state that is involved in any manner in an accident
23 in this state resulting in bodily injury to or death of a person or damage to the property
24 of any one person exceeding \$1,000 [\$500].

25 * Sec. 13. AS 28.20.050(e) is amended to read:

26 (e) A peace officer investigating an accident that results in bodily injury to or
27 the death of a person or damage to the property of a person exceeding \$1,000 [\$500]
28 shall inform persons involved in the accident in writing of the requirements of this
29 chapter as they apply to suspension of an operator's license or driving privileges.

30 * Sec. 14. AS 28.20.100(c) is amended to read:

31 (c) If the department evaluates the injuries or damage to a minor in an amount

1 not more than \$1,000 [\$500], the department may accept, for the purposes of this
2 chapter only, evidence of a release from liability executed by a natural or legal
3 guardian on behalf of the minor without court approval.

4 * Sec. 15. AS 28.20.230(a) is amended to read:

5 (a) The provisions of this chapter requiring the deposit of proof of financial
6 responsibility for the future apply to persons who are convicted of or forfeit bail for
7 certain offenses under motor vehicle laws or who, by ownership or operation of a
8 vehicle of a type subject to registration under AS 28.10, are involved in an accident
9 in this state that results in bodily injury or death of a person or damage to the property
10 of any one person exceeding \$1,000 [\$500].

11 * Sec. 16. AS 28.20.260(a) is amended to read:

12 (a) Upon receipt by the department of the report of an accident resulting in
13 bodily injury or death, or property damage to any one person exceeding \$1,000 [\$500],
14 the department shall suspend the license of the driver of a motor vehicle involved in
15 the accident unless the driver or owner

16 (1) has previously furnished or immediately furnishes security required
17 by this chapter, or is excepted from furnishing security under AS 28.20.060; [,] and

18 (2) maintains proof of financial responsibility for three years following
19 the accident.

20 * Sec. 17. AS 28.22.021 is amended to read:

21 Sec. 28.22.021. REQUIREMENT OF PROOF OF MOTOR VEHICLE
22 LIABILITY INSURANCE. The owner or operator of a motor vehicle required to have
23 motor vehicle liability insurance that complies with this chapter or a certificate of
24 self-insurance that complies with AS 28.20.400, shall show proof of this insurance
25 when that person is involved in an accident that results in bodily injury to or death of
26 a person, or damage to the property of a person exceeding \$1,000 [\$500].

27 * Sec. 18. AS 28.22.041(a) is amended to read:

28 (a) If [EXCEPT AS PROVIDED IN (h) OF THIS SECTION, IF] a person
29 fails to provide proof required under AS 28.22.021 and 28.22.031, the department shall
30 suspend the driver's license of that person for the following periods:

31 (1) not less than 90 days if, within the preceding 10 years, the person

1 has not had a driver's license suspended for violation of AS 28.22.011 or former
2 AS 28.22.200;

3 (2) not less than one year if, within the preceding 10 years, the person
4 has had a driver's license suspended one or more times for violation of AS 28.22.011
5 or former AS 28.22.200.

6 * Sec. 19. AS 28.35.080(a) is amended to read:

7 (a) The driver of a vehicle involved in an accident resulting in bodily injury
8 to or death of a person or total property damage to an apparent extent of \$1,000 [\$500]
9 or more shall immediately by the quickest means of communication give notice of the
10 accident to the local police department if the accident occurs within a municipality,
11 otherwise to the Department of Public Safety.

12 * Sec. 20. AS 28.35.080(b) is amended to read:

13 (b) The driver of a vehicle involved in an accident resulting in bodily injury
14 to or death of a person or total property damage to an apparent extent of \$1,000 [\$500]
15 or more shall, within 10 days after the accident, forward a written report of the
16 accident to the Department of Public Safety and to the local police department if the
17 accident occurs within a municipality. A report is not required under this subsection
18 if the accident is investigated by a peace officer.

19 * Sec. 21. AS 33.30.011 is amended to read:

20 Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner shall

21 (1) establish, maintain, operate, and control correctional facilities
22 suitable for the custody, care, and discipline of persons charged or convicted of
23 offenses against the state or held under authority of state law;

24 (2) classify prisoners;

25 (3) for persons committed to the custody of the commissioner, establish
26 programs, including furlough programs that are reasonably calculated to

27 (A) protect the public;

28 (B) maintain health;

29 (C) create or improve occupational skills;

30 (D) enhance educational qualifications;

31 (E) support court-ordered restitution; and

1 (F) otherwise provide for the rehabilitation and reformation of
2 prisoners, facilitating their reintegration into society;

3 (4) provide necessary medical services for prisoners in state
4 correctional facilities or to fulfill duties under AS 33.30.071 [WHO ARE
5 COMMITTED BY A COURT TO THE CUSTODY OF THE COMMISSIONER],
6 including examinations for communicable and infectious diseases, if a physician or
7 other health care provider, exercising ordinary skill and care at the time of
8 observation, concludes that

9 (A) a prisoner exhibits symptoms of a serious disease or
10 injury that is curable or may be substantially alleviated; and

11 (B) the potential for harm to the prisoner by reason of delay
12 or denial of care is substantial;

13 (5) provide necessary psychological or psychiatric treatment if a
14 physician or other health care provider, exercising ordinary skill and care at the time
15 of observation, concludes that

16 (A) a prisoner exhibits symptoms of a serious disease or injury
17 that is curable or may be substantially alleviated; and

18 (B) the potential for harm to the prisoner by reason of delay or
19 denial of care is substantial; and

20 (6) establish minimum standards for sex offender treatment programs
21 offered to persons who are committed to the custody of the commissioner.

22 * Sec. 22. AS 36.30 is amended by adding a new section to read:

23 Sec. 36.30.085. LEASE EXTENSIONS AUTHORIZED. (a) Notwithstanding
24 AS 36.30.080, the department may extend for up to a maximum of 10 years a real
25 property lease that is entered into under this chapter or was entered into under former
26 AS 37.05.220 - 37.05.280 and that is in existence as of June 30, 1994 if a minimum
27 cost savings of

28 (1) 10 percent can be achieved on the rent due under the lease; or

29 (2) five percent can be achieved on the rent due under the lease and the
30 lessor agrees to make modifications to the leased real property to bring the real
31 property into compliance with the requirements of 42 U.S.C. 12101 - 12213

1 (Americans with Disabilities Act of 1990).

2 (b) The cost savings under (a) of this section shall be calculated on the
3 remaining term of the lease and any renewals, including extensions allowed under (a)
4 of this section.

5 (c) In accordance with AS 36.30.005, the Board of Regents may extend leases
6 for the University of Alaska to the same extent as the department under this section.

7 (d) In accordance with AS 36.30.030, the court system may extend leases for
8 the court system to the same extent as the department under this section.

9 * Sec. 23. AS 36.30.320(a) is amended to read:

10 (a) A procurement for (1) supplies, services, or construction that does not
11 exceed an aggregate dollar amount of \$25,000, or (2) lease of space that does not
12 exceed 2,500 square feet with a monthly lease amount that does not exceed \$5,000,
13 may be made in accordance with regulations adopted by the commissioner for small
14 procurements.

15 * Sec. 24. AS 37.07.040 is amended to read:

16 Sec. 37.07.040. OFFICE OF MANAGEMENT AND BUDGET. The Alaska
17 office of management and budget shall

18 (1) assist the governor in the preparation and explanation of the
19 proposed comprehensive program and financial plan, including the coordination and
20 analysis of state agency goals and objectives, plans, and budget requests;

21 (2) prepare for submission to the governor an annually updated
22 [SIX-YEAR] capital improvements program in fiscal year format covering the
23 current fiscal year plus three succeeding fiscal years and the proposed capital
24 improvements budget for the coming fiscal year, the latter to include individual project
25 justification with documentation of estimated project cost;

26 (3) develop procedures to produce the information needed for effective
27 policy decision making, including procedures to provide for the dissemination of
28 information about plans, programs, and budget requests to be included in the annual
29 budget and opportunity for public review and comment during the period of budget
30 preparation;

31 (4) assist state agencies in their statement of goals and objectives,

1 preparation of plans, budget requests, and reporting of program performance; all
2 documents forwarded by the office to a state agency containing instructions for the
3 preparation of program plans and budget requests and the reporting of program
4 performance are public information after the date they are forwarded;

5 (5) administer its responsibilities under the program execution
6 provisions of this chapter so that the policy decisions and budget determinations of the
7 governor and the legislature are implemented;

8 (6) provide the legislative finance division with the budget information
9 it may request;

10 (7) provide the legislative finance division with an advance copy of the
11 governor's budget workbooks by the first Monday in January of each year, except that
12 following a gubernatorial election year the advance copy shall be provided by the
13 second Monday in January;

14 (8) prepare the proposed capital improvements budget for the coming
15 fiscal year evaluating both state and local requests from the standpoint of need, equity,
16 and priorities of the jurisdiction; other factors such as project amounts, population,
17 local financial match, federal funds being used for local match, municipality or
18 unincorporated community acceptance of the facility, and all associated costs of the
19 facility may be considered.

20 * Sec. 25. AS 44.42.050(b) is amended to read:

21 (b) In developing and revising the plan, the commissioner shall seek public
22 review and evaluation consistent with applicable federal statutes and regulations
23 and by any reasonable means and may

24 (1) consult and cooperate with officials and representatives of the
25 federal government, other governments, interstate commissions and authorities, local
26 agencies and authorities, interested corporations and other organizations concerning
27 problems affecting transportation in the state; and

28 (2) request from an agency or other unit of the state government or of
29 a political subdivision of it, or from a public authority, the assistance and data that
30 may be necessary to enable the commissioner to carry out responsibilities under this
31 section; every such entity shall provide the assistance and data requested.

1 * Sec. 26. AS 46.03 is amended by adding a new section to read:

2 Sec. 46.03.026. ON-SITE WATER AND SEWER SYSTEM CERTIFICATION
3 AND AUDIT PROGRAM. (a) Notwithstanding any provision of this chapter to the
4 contrary, for bank loans for homes in this state, the department may establish, by
5 regulation, a program to delegate the review and certification of on-site drinking water
6 and sewer systems. Under standards adopted by the department by regulation, the
7 department may delegate the review and certification to engineers who are registered
8 under AS 08.48.

9 (b) If the department establishes a program under (a) of this section, the
10 department shall establish an audit system for the department to monitor and review
11 a statistically significant number of systems certified under that program. An audit
12 must determine compliance with departmental standards for design, installation, and
13 operation in effect at the time of the certification.

14 (c) If the department establishes a program under (a) of this section, the
15 department shall, by regulation, establish fees for services sufficient to make the
16 program self-supporting.

17 * Sec. 27. AS 46.03.720 is amended by adding a new subsection to read:

18 (d) Notwithstanding (a) of this section, department review and approval of
19 plans is not required for the functions specified in (a) of this section if

20 (1) the sewerage system or treatment works, or a part of either, is
21 located in a community or major military facility that has the power or legal authority
22 to review and approve sewerage system or treatment works plans;

23 (2) the community or major military facility has established ordinances
24 or other law to regulate domestic sewerage that the department has determined are
25 substantially equivalent to department standards in effect at the time of the
26 determination;

27 (3) the community or major military facility has employed an engineer
28 registered under AS 08.48 who will review and approve domestic sewerage plans
29 under those ordinances or other law;

30 (4) the community or major military facility commits adequate funding
31 or other resources to administer plan review and approvals under this subsection; and

1 (5) the department and the community or major military facility have
2 entered into an agreement under this subsection for delegation of the review and
3 approval of plans under the standards described in this subsection.

4 * Sec. 28. AS 28.10.108(b) and AS 28.22.041(h) are repealed.

5 * Sec. 29. TRANSITION. Notwithstanding sec. 31 of this Act, an agency of the state that
6 has regulation adoption authority or that is authorized by this Act to adopt regulations, may
7 proceed to adopt regulations necessary to implement that agency's respective provisions in this
8 Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
9 before July 1, 1994.

10 * Sec. 30. Section 29 of this Act takes effect immediately under AS 01.10.070(c).

11 * Sec. 31. Except as provided in sec. 30 of this Act, this Act takes effect July 1, 1994.