

HB

738

"An Act making a supplemental appropriation to the Department of Law for miscellaneous court awards; and providing for an effective date."

COMMITTEE REPORT

2/11/76

HOUS

FINANCE

Mr. Speaker:

Date Feb 19, 1976

JUDICIARY

The Committee on _____ has had HB 738

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>Tony Jackson</u>	<u>Do Pass</u>	_____
<u>Glenn Thomas</u>	<u>Do Pass</u>	_____
<u>W. J. Mackey</u>	<u>Do Pass</u>	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

Tony Jackson Chairman

House Judiciary Committee
February 19, 1976

The meeting was called to order by Chairman Gardiner at 7:00 p.m. Members present were Brown, Cotten, Bradley, Parr, Gardiner and Specking.

HJR 45 GUN CONTROL

HJR
45

Mr. Swanson stated that Alaska is different from other states. We need guns for survival, not quite like Chicago.

Mr. Brown moved that Mr. Swanson's amendment changing the Be It Resolved clause be changed somewhat. It was agreed upon. Mr. Cotten moved that the amendment be adopted. There being no objection, it was adopted and will be incorporated in a CS.

Mr. Brown moved CS HJR 45 out of committee. There being no objection, it was done.

HB 738 MISCELLANEOUS COURT AWARDS

HB
738

Rick Counsel of the AG's office was here to explain that this appropriation was to pay back court costs arising out of attorney's fees, judgments against the state and interest on these for six cases.

Mr. Cotten moved HB 738 out of committee. There being no objection, it was done.

SB 296 am INTEGRATED BAR ACT

SB
296
am

Mr. Bill Barrier of LAA.

This bill is detrimental to the agency and the Legislature. We are here dealing with a highly specialized kind of law. The work done here gets plenty of scrutiny, and we have only one client, the Legislature. Therefore this bill accomplished no public purpose. If imposed it would cause serious career problems for those working for the agency as they are not defined as practicing law. It would also cut down on the caliber of people the agency will be able to attract.

Mr. Allen Compton, Counsel for the Alaska Bar Association.

Page 3, line 24: It should be clear to whom in the Legislature these reports should be directed.

Page 3, line 25: Some matters are confidential by court rule, therefore cannot be included in above report.

MEMORANDUM

State of Alaska

MA

TO: Frances Ulmer
Legislative Assistant
Governor's Office

DATE: February 13, 1976

FILE NO:

TELEPHONE NO:

FROM: Avrum M. Gross
Attorney General

SUBJECT: HB 738 (supplemental
appropriation to Department
of Law

As you requested, here are some quick comments on this bill. It is quite important that it be enacted very soon — like within a week.

One of the cases for which this bill would appropriate money for court costs and attorney fees is one in which we are being threatened with litigation on the issue of interest on this kind of award. Typically, when this kind of award is made and there is some delay in paying it due to lack of appropriated funds, we are able to dissuade the attorneys on the other side from pressing the interest matter. However, we are now confronted with one who says he will litigate it if he is not paid almost immediately. If he should win on the point, then a precedent would be established and other attorneys would be encouraged to press for interest on awards of court costs and attorney fees. Over the years this would amount to many thousands of dollars.

AMG:md:AHP

ent 9 30 070

February 6, 1976

M E M O R A N D U M

TO: The Honorable Jay S. Hammond
Governor

FROM: Avrum M. Gross
Attorney General

RE: Attached supplemental appropriation to
Department of Law

Attached is a supplemental appropriation bill, requested by this department and approved by the Budget Review Committee, to pay miscellaneous court awards. Also attached is Wil Condon's January 23 memo to Kent Dawson, explaining the request in more detail. Here is a draft transmittal letter:

D R A F T

In accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill making a supplemental appropriation to the Department of Law to pay miscellaneous court awards. Decisions in five cases have resulted in state obligations as follows:

<u>United States v. Alaska</u>	\$10,426.00
<u>State of Alaska v. Pankratz</u>	5,872.67
<u>Abrams, et al. v. State, et al.</u>	5,082.00
<u>Park v. Lowell Thomas</u>	751.83
<u>Douglas v. Williamson</u>	1,000.00

The Honorable Jay S. Hammond
Governor

February 6, 1976
- 2 -

Another case, Stevens et al. v. McGinnis et al., has been decided by the Alaska Supreme Court, but the final award of costs has not yet been made. We estimate that it will be \$12,800.

Sincerely,

Jay S. Hammond
Governor

AMG:md:AHP

TO:

V. Kent Dawson
Director
Division of Budget
& Management
Department of Administration

DATE : January 23, 1976

FROM:

Wilson L. Condon
Deputy Attorney General

SUBJECT: Supplemental
Appropriation -
Legal Fees and
Court Costs

The following judgment for costs and attorney's fees have been entered against the State. The Department of Law does not have sufficient funds to pay these judgments and therefore we request that supplemental appropriations be sought to cover these amounts.

- | | | |
|----|--|-------------|
| 1. | <u>United States v. Alaska</u> | \$10,426.00 |
| 2. | <u>State of Alaska v. Pankratz</u> | 5,872.67 |
| 3. | <u>Abrams, et al. v. State, et al.</u> | 5,082.00 |
| 4. | <u>Park v. Lowell Thomas</u> | 751.83 |
| 5. | <u>Douglas v. Williamson</u> | 1,000.00 |

1. In the case of the United States v. Alaska, the dispute centered on ownership of Lower Cook Inlet. The federal government prevailed and has been awarded the costs set forth above by the United States Supreme Court.

2. In the case of Pankratz, the dispute centered on who owned a gravel bar in the Chená River directly contiguous to an island owned by Pankratz. The State filed a lawsuit to support its contention that the gravel bar was state-owned. Pankratz prevailed in the Supreme Court and has been awarded costs and attorney's fees.

3. In Abrams, the dispute concerned the constitutionality of ch. 145, SLA 1974 which concerned the Eagle River-Chugiak Borough. Abrams prevailed in the case and was awarded court costs and attorney's fees.

23,132.47
12.3
357

4. The Park case was brought when Dail Park was denied the issuance of a notary seal because he was an alien. Park prevailed and portions of AS 44.50.020 were found unconstitutional. He was awarded costs and attorney's fees of \$751.83.

5. The Douglas case concerned the validity of certain emergency regulations reducing the kinds of drugs available under the General Relief Medical Program of the Department of Health and Social Services. The regulations were determined to be invalid due to the lack of any emergency and plaintiff was awarded \$1,000 in costs and attorney's fees.

Another award of costs and attorney's fees for which we certainly will have to seek funds was granted in the case of Stevens, et al v. McGinnis, et al. This case, which dealt with procedures in correctional institutions and prisoners' rights, was recently decided by our Supreme Court. The final award of costs has not yet been made; we estimate it will be \$12,800. To keep supplemental requests to a minimum, we suggest that you may want to request the \$12,800 for this case at this time also.

If any further information is needed, please notify the Department of Law at 465-3600.

WLC:jeh

MEMORANDUM

State of Alaska

TO: Carl Peterson, Assistant A. G.
Dept of Law

Do not type

FROM: ASW, Chairman
BRC

DATE

SUBJECT:

Supplemental Appropriation/
Legal fees & court awards,
Dept of Law

The Governor's Budget Review Committee has approved the request by the Department of Law ~~for a~~ to request a supplemental appropriation in the amount of \$35,900 to pay various court awards as itemized in the attached memorandum. Please draft ^{submitted} appropriate legislation to be ~~to be~~ ~~submitted~~ by the Governor.

0.*†

0.*†

1,042,600.+
587,267.+
508,200.+
75,183.+
100,000.+
2,313,250.*†

2,313,250.+
1,280,000.+
3,593,250.*†

Kent -

5.0 was appropriated
for FY 76 of which 4.0
remained on 12/31. Condon
says he knows of another
1.0 which will have to be
spent and wants to save
the other 3.0 for other
small awards which he thinks
they will have to pay before
year end; rather than applying
it to the listed claims. You
will need to call a BRC
meeting

BUDGET AND MANAGEMENT ROUTE SLIP

IMMEDIATE ACTION

DATE: _____

TO:	FROM:	ACTION:
<input type="checkbox"/> Director	_____	<input type="checkbox"/> Review & Advise
<input type="checkbox"/> Deputy Director	_____	<input type="checkbox"/> Prepare Reply
<input type="checkbox"/> Fiscal Analyst	_____	<input type="checkbox"/> Initial & Return
<input type="checkbox"/> <i>Judy</i>	_____	<input type="checkbox"/> Approval
<input type="checkbox"/> _____	_____	<input type="checkbox"/> Signature
<input type="checkbox"/> _____	_____	<input type="checkbox"/> Sign & Process
<input type="checkbox"/> _____	_____	<input type="checkbox"/> Per Your Request
<input type="checkbox"/> _____	_____	<input type="checkbox"/> Necessary Action
<input type="checkbox"/> _____	_____	<input type="checkbox"/> Your Information
<input type="checkbox"/> Secretary	_____	<input type="checkbox"/> File
<input type="checkbox"/> Typist	_____	<input type="checkbox"/> Contact Me
<input type="checkbox"/> _____	_____	<input type="checkbox"/> Type Please

REMARKS: _____

*arrange with Karl to get
BRC approval of this
then draft memo to
Peterson requesting*