

S B

454

Municipality
of
Anchorage



POUCH 6-650
ANCHORAGE, ALASKA 99502
(907) 274-2525

GEORGE M. SULLIVAN,
MAYOR

OFFICE OF THE MUNICIPAL ATTORNEY

January 23, 1978

Howard DeVore
Alaska State Volunteer Services
338 Denali St., Mackay Bldg. 7th
Anchorage, Alaska 99501

Re: Proposed Senate Bill on Volunteer Services

Dear Mr. DeVore:

You have asked for a response to the above-captioned bill concerning volunteer services from the Municipality of Anchorage. The Municipality of Anchorage would not be in favor of the measure as it is presently drafted. It is our view that the potential legal problems created by the use of volunteers will be magnified by the proposed legislation and would be more effectively addressed by local legislation tailored to meet specific community needs.

The legislation which deems volunteers employees for the purpose of tort liability apparently is intended to decrease governmental liability in this area. However, the activities of volunteers will not necessarily fall within the state statute immunizing local governments from tort actions for certain acts of their employees. Absent this immunization, the proposed bill could actually have the effect of increasing exposure to liability under tort doctrine applied to the employment relationship. This in turn would discourage local governments from sponsoring volunteer programs and activities.

Extension of workman's compensation to volunteers also poses significant problems. First, from a legal standpoint, volunteers are not presently covered under workman's compensation laws and the present bill does not indicate how this will be accomplished. As the bill is presently drafted potential abuse of workman's compensation benefits exists in that volunteers are not subject to usual personnel management which safeguards against unfounded claims. Finally, the bill does not set forth a plan for the administration of volunteer coverage under workmen's compensation

Howard DeVore
January 23, 1978
Page 2

including the difficult task of setting terms of coverage. Volunteer workers are an important community resource but problems created by their use can best be solved at a local level.

Please contact this office if you have any questions.

Very truly yours,

THEODORE D. BERNIS
Municipal Attorney

Peggy A. Roston

Peggy A. Roston
Assistant Municipal Attorney

PAR:gml

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 9, 1978

SUBJECT: Volunteer Services (CSSB 454)

TO: Senate State Affairs Committee
ATTN: Barney Eberhardt, A.A.

FROM: Kenneth E. Vassar 
Legislative Counsel

You have requested that I draft a committee substitute for Senate Bill 454 which will (1) provide that volunteers are state employees for the purposes of confidentiality statutes relating to state employees, and (2) provide a mechanism for the inclusion of volunteers under the Alaska Workmen's Compensation Act (AS 23.30.005 - 23.30.270). In connection with the latter, your instructions provided that I should contact Senator Huber for details.

You will note that the attached draft includes a new clause at the end of section 220(a) of the bill which provides that volunteers are state employees for the purposes of AS 39.51.-010. This, I believe, is the section you had in mind; and it basically prohibits misuse of confidential information by a person who is or has been an employee of the state.

In addition, a new section, which is incorporated as section 2, has been added to the bill. This section would amend the Alaska Workmen's Compensation Act by adding a new section which provides a method of determining a volunteer's average weekly wage for the purposes of that act. If a volunteer has income from outside employment or self-employment, that will be used in accordance with the normal procedure under the act to determine his average weekly wage. If a volunteer is unemployed or retired, his average weekly wage will be considered to be the greater of 75 percent of the Alaska average weekly wage or his average weekly wage for his last period of employment. The "75 percent" figure has been used only for discussion purposes and has no other particular significance.

KEV:jpd

SENATE COMMUNITY AND REGIONAL AFFAIRS
COMMITTEE MEETING

June 1, 1978

Present: Senators Orsini, Hackney and Sumner; Ann Mawn, Lt. Governor's office; Don M. Berry, Municipality of Anchorage; Steve Hole, DOE; Bob Cooksey, NEA-Alaska.

Absent: Senators Willis and Ferguson

The meeting was called to order at 3:10 p.m. and the bills before the Committee were SB 454 and HB 934 am.

SENATE BILL 454

Chairman Orsini stated that the Committee had a committee substitute for the bill. He stated that it took out all references to municipalities. There was no public testimony given at this time.

Senator Sumner moved that SB 454 pass out of committee with "INDIVIDUAL RECOMMENDATIONS".

HOUSE BILL 934 am

Chairman Orsini stated that this bill came of HESS committee with a "DO PASS" recommendation.

Bob Cooksey, NEA-Alaska, stated that they had no objections to the bill.

Steve Hole, Department of Education, stated that the Department was in favor of HB 934 am

Senator Sumner moved that HB 934 am pass out of committee with "INDIVIDUAL RECOMMENDATIONS".

The meeting was adjourned at 3:30 p.m.

F. CSSB
454

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

Dear Ben;

In response to your request for a position on CSSB 454, I offer you the following:

Should this bill come up, we would testify against the "municipal opt-in" clause. We would do this for two reasons. First, I would suspect that we already can, if we chose, cover any of our volunteers. The second reason is that, while we might want to cover some, we would not necessarily wish to cover all. I would fear though, that if there were a law on the books, there would be pressure for the municipality to opt in regardless of need. Thus, our insurance rates would really increase. Consider the methods by which the Workmen's Compensation Board would consider the wages of a volunteer if they had not earned wages in the last three years. It would appear that the low would be \$1,967 per month with a high of \$4,110. These kinds of dollars could encourage abuse.

I think that pretty well describes our feelings.





HOWARD L. DEVORE
OFFICE OF VOLUNTEER SERVICES

STATE OF ALASKA
OFFICE OF THE GOVERNOR

MACKAY BUILDING
ANCHORAGE, ALASKA 99501
(907) 274-6223

(Ken Jessar)

Req. WAIVER OR

S/RS - FOR
PASSAGE S/FIN.

AS PASSED
5/18/70

Original sponsor: Rules Committee by
request of the Governor

CONTACT RE WAIVER OR
HEARING.

IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

CS FOR SENATE BILL NO. 454

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to volunteer service."

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

* Section 1. AS 39.05 is amended by adding new sections to read:

ARTICLE 5. VOLUNTEER SERVICE.

Sec. 39.05.200. AUTHORIZATION; ^{OFFICE OF VOLUNTEER SERVICES.}
(a) All state agencies are authorized to recruit, train, and accept without regard to personnel laws, rules, or regulations, including the Public Employment Relations Act (AS 23.-40.070 - 23.40.260), the services of individuals without compensation as volunteers for or in aid of their functions.

(b) There is created in the office of the lieutenant governor the Office of Volunteer Services.

Sec. 39.05.210. INCIDENTAL EXPENSES. All state agencies are authorized, within appropriation limits, to provide for incidental expenses, such as transportation, lodging, subsistence, and uniforms or special clothing required for the volunteers.

Sec. 39.05.220. EMPLOYMENT STATUS. (a) Except as otherwise provided in this section, a volunteer is not a state official or employee and is not subject to the provisions of law relating to state employment, including those related to hours of work, rates of compensation, leave, unemployment compensation, employee benefits, and employee labor relations; however, a volunteer is a state employee for the purposes of AS 39.51.010.

(b) For the purposes of tort claims against the state, a volunteer is a state employee.

(c) For the purposes of the Alaska Workmen's Compensation Act (AS 39.005 - 23.39.270), a volunteer is a state employee as provided in

Issue of
IDENTIFICATION
LETTERS

AS 23.30.244.

Sec. 39.05.230. LIMITATION. Volunteers may be used to supplement existing salaried employees or service contracts but may not be used to supplant them.

Sec. 39.05.240. APPLICATION. (a) A person applies to be a volunteer on a form prescribed by the lieutenant governor and made available at any state agency which uses volunteers. The forms may vary among agencies in accordance with their respective needs. An agency may refuse to accept any application for volunteer service if it believes it cannot reasonably utilize the service.

(b) A person who performs volunteer service without first applying as provided by (a) of this section and without having his application accepted is not a volunteer for the purposes of secs. 200 - 250 of this chapter.

Sec. 39.05.250. LOCAL OPTION. (a) A municipality may provide, by resolution or ordinance, for volunteer service under this chapter for that municipality.

(b) A municipality which provides for volunteer service shall notify the lieutenant governor and request application forms prescribed by him for municipalities.

(c) The provisions of secs. 200 - 240 of this chapter apply to any municipality which provides for volunteer service; however,

(1) volunteers are considered to be municipal employees for the purposes of tort claims only if the municipality has approved that classification by resolution or ordinance;

(2) volunteers are considered to be municipal employees for the purposes of workmen's compensation only if the municipality has approved that classification by resolution or ordinance.

(d) Nothing in this section affects the performance of public

service for municipalities on a voluntary basis, such as but not limited to, spring clean-ups, municipal celebrations, Fourth of July activities, volunteer fire departments, police reserves, ski patrols, and other forms of voluntary public service which are performed under municipal auspices; however, the municipality may include these services, in whole or in part, under the coverage of secs. 200 - 240 of this chapter as provided by this section.

* Sec. 2. AS 23.30 is amended by adding a new section to read:

Sec. 23.30.244. VOLUNTEERS. (a) Volunteers whose services are utilized by state agencies [or municipalities] under the provisions of AS 39.05.200 - 39.05.250 are considered employees under this chapter only while actually traveling or working as volunteers of state agencies or municipalities. The average weekly wage of the volunteer, for the purpose of computing compensation, shall be determined in accordance with sec. 220 of this chapter; however, if the volunteer is unemployed or retired and has received no wages ^{See Amendment} for the three calendar years

~~immediately preceding the injury, his average weekly wage shall be considered to be the greater of~~

- ~~(1) 75 per cent of the Alaska average weekly wage as determined under sec. 175 of this chapter, or~~
- ~~(2) the volunteer's average weekly wage determined in accordance with sec. 220 of this chapter for his most recent period of employment.~~

(b) Annual appropriations to fund the coverage provided for in (a) of this section for volunteers whose services are utilized by state agencies shall be provided for in the budget of the Office of the Governor. ~~_____~~

* Sec. 3. AS 44.19.030 is amended by adding a new paragraph to read:

- (3) coordinate, promote, and adopt regulations for the pro-

gram for full-time and part-time volunteer service authorized by AS
39.05.200 - 39.05.230.

Sec 23.30.24 4(a) (after) received no wages -
AMENDMENT TO CS FOR SENATE BILL NO 454 *Hubers*

~~SEC. 39.05.220. EMPLOYMENT STATUS~~

~~(c) For the purposes of the Workmen's Compensation Act (230.005-230.27)~~

~~a volunteer is a state employee.~~ (ADD) "The Workmen's Compensation Board

may fix the wage-earning capacity of volunteers in state agencies at no

less than Range 20, Step A and no higher than the top of classified service."