

HB

294

1 IN THE HOUSE

BY ADAMS AND HAUGEN BY REQUEST

2 HOUSE BILL NO. 332

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act limiting the civil liability of aviation fuel
7 refiners; and providing for an effective date."

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

9 * Section 1. FINDINGS. The legislature finds that

10 (1) aviation is essential to the life of every Alaskan, in com-
11 munications, commerce, and in emergencies;

12 (2) refiners distributing aviation fuel in Alaska perform an
13 important service by supplying high quality products throughout the state;

← HOW DO WE KNOW THAT?

14 (3) once aviation fuel has been transferred by a refiner to the
15 storage tanks of a third party, a refiner has no control over the continued
16 quality and integrity of the fuel;

← THAT IS NOT THE QUESTION

*IN BRAND NAME STATIONS CONTAINED
NO RETIRED*

17 (4) in the event of a civil action arising from an aircraft
18 accident, it is unfair to hold a refiner liable for the quality and integri-
19 ty of fuel which was placed in aircraft fuel tanks after transfer from the
20 refiner to a third party;

21 (5) without protection from unreasonable liability, refiners may
22 be forced to withdraw from the Alaska aviation fuel market.

23 * Sec. 2. AS 09.65 is amended by adding a new section to read:

24 Sec. 09.65.140. CIVIL LIABILITY OF AN AVIATION FUEL REFINER. (a)

25 An aviation fuel refiner is not liable in a civil action for injuries
26 resulting from the use of contaminated or impure fuel in an aircraft.

27 (b) This section does not apply to an aviation fuel refiner who
28 *WHO EVER* intentionally causes an injury or whose gross negligence
29 causes or contributes to an injury; or

Does Th. T. (1) →

1 (2) transfers aviation fuel directly into the fuel tanks of
2 an aircraft.

3 (c) In this section

4 (1) "aviation fuel refiner" means a company, corporation, or
5 individual who owns or controls, or controls through a substantially
6 owned subsidiary, partnership, or joint venture, a refinery used for
7 the production of aviation fuel;

8 (2) "injury" includes death, personal injury, and property
9 damage whether tangible or intangible.

10 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-
11 070(c).

12
13 ① Pilots CAN and ARE "EXPECTED TO"
14 HANDLE WATER & DIRT

15
16 ② Pilots CAN NOT HANDLE THE ~~MISMANUFACTURE~~
17 MISMANUFACTURE OR Refining of The
18 Fuel

19
20 ③ This Bill lets The Refiners out of
21 liability on Number 2

22
23 [④ How did we get along all this
24 Time (65 years plus) without this Bill?]
25
26
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28
29

MEMORANDUM

State of Alaska

TO: Ron Lehr, Director
Division of Budget and
Management
Office of the Governor

DATE: February 17, 1981

FILE NO:

TELEPHONE NO:

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: FY 81 Supplemental
Appropriation-Judgments

Richard I. Pegues
By: Richard I. Pegues, Director
Administrative Services Division

As you know, the Department of Law each year receives an appropriation of \$15,000 to pay miscellaneous judgments which covers costs and fees awarded in court settlements against the state. This initial appropriation was fully expended in September, 1980. Since that time, nine additional judgments have been made against the state totalling \$955,930.84, including interest. Of this amount, a single judgment of \$881,367 was awarded as a result of a contract claim against the Department of Transportation of Public Facilities arising from the construction of a state owned salmon hatchery at Hidden Falls, on Baranof Island. The major portion of this claim represents contractor construction costs rather than court costs and attorney fees. The state's counsel, in this matter, has concluded that the contractor's claim of \$2.5 million would have resulted in a liability to the state somewhat in excess of \$1.0 million, if the case had gone to full trial. Counsel therefore negotiated this settlement which all parties agreed was equitable.

The remaining eight judgments, in total amount, are similar to past years' experience where, in FY 80, we paid \$62,800 for judgments and, in FY 79, when we paid \$75,300 for judgments.

Interest paid varies by actual judgment. Some claims receive 8.0 percent, others receive 10.5 percent and some do not receive interest depending upon the specific conditions of the judgment award. The maximum interest allowed is now 10.5 percent and this limit was increased from 8.0 percent in mid-year. Interest, where it applies, has been computed from date of award through May 31, 1981.

Attached for your review and transmittal to the legislature are: a summary of the judgments, showing the amount of the award and interest; copies of the judgments, together with relevant correspondence, and; the supplemental budget request forms.

RIP:cjs

Attachments

KNOWN OUTSTANDING JUDGMENTS AS OF 2/17/81

	<u>CASE</u>	<u>AMOUNT</u>	<u>INTEREST</u>	<u>TOTAL DUE</u>
1978	<i>Gov's Elect</i> Thomas v. Croft	19,797.15	3,401.20	23,198.35
	Kimura v. ABC Board	1,140.00	74.75	1,214.75
	Gardner v. State	997.60		997.60
	<i>Substences</i> Tyonek v. State	10,000.00	673.92	10,673.92
	Copeland v. CFEC	1,250.00	86.40	1,336.40
	Gjosund v. F & G	9,022.51	504.41	9,526.92
	Christenson, Raber, Kief & Assc. v. State	835,000.00	46,367.00	881,367.00
	Bailey v. Thomas & Beirne	12,817.50	535.05	13,352.55
	Zobel v. Williams	<u>13,707.35</u>	<u>556.00</u>	<u>14,263.35</u>
	TOTAL	\$903,732.11	\$52,198.73	\$955,930.84

MEMORANDUM

State of Alaska

5100501

TO: Ron Lehr, Director
Division of Budget and
Management
Office of the Governor

DATE: January 7, 1981

FILE NO:

TELEPHONE NO: 465-3695

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Supplemental Appropriation--
FY 81 Judgments

By: *Richard I. Pegues*
Administrative Officer

The Department of Law anticipates submitting a supplemental judgment request of approximately \$940,595 to settle judgments against the state for FY 81. Unpaid settlements, to date, are as follows:

<u>Case</u>	<u>Amount</u>		
Thomas v. Croft	\$23,200 ✓	23,199	23.2
Kimura v. ABC Board	1,215 ✓	1,215	1.2
Gardiner v. CFEC	1,000 ✓	998	1.0
Tyonek v. State	10,675 ✓	10,674	10.7
Hutcherson v. Labor	265		
Copeland v. CFEC	1,340 ✓	1,337	1.3
Gjosund v. F&G	9,530 ✓	9,527	9.5
Zobel v. Williams	12,000	14,264	14.3
Christiansen & Assn. v. State	881,370	881,367	881.4
<i>BRILEY vs. Thomas & BEIRNE</i>		13,353	13.4
		<u>955,934</u>	

Additional judgment claims may occur before the legislature limits their consideration of supplemental requests. Please let us know when the request cutoff will take place, once this information becomes available to you.

RIP:cjs

*To Typist
2/17/81*

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JAN 8 1981

BUDGET MANAGEMENT