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Alaska State Legislature

Senate

Official Business

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY OF SENATE JUDICIARY COMMITTEE HEARING
OF
MARCH 27, 1981

Butrovich Committee Room, State Capitol - Juneau, Alaska

Legislation Before Committee:

SB 7 "An Act relating to accretion, reliction, and erosion; and providing for an effective date."

SB 283 "An Act relating to offers of judgment."

SJR 25 Relating to the Klondike Gold Rush National Historical Park.

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:35 p.m. Committee members present were: Senators Bennett, Hohman, Parr, Ray, and Rodey.

Testifying in favor of SB 7 was Mike Holmes, attorney representing Theodore J. Smith and Fred S. Honsinger in a case involving waterfront property in Juneau. Mr. Holmes gave an overview of those events leading up to the promulgation of the proposed resolution.

Thomas Koester, Assistant Attorney General, spoke before the Committee as to the opinion of the Attorney General's office. His written comments are being made a part of the committee's permanent file.

Chairman Rodey deferred action on SB 7 at this hearing, pending further research.

Chairman Rodey provided background information on SB 283, and legislation passed last session which was intended to provide that a party making an offer of settlement would, if the offer was rejected and he prevailed, receive an interest rate of 2%. Chairman Rodey stated that the intent was to encourage an offer of settlement, particularly if in good faith and a reasonable one was rejected, that the party acting unreasonably would bear a 2% loss, or the reasonable party would incur a 2% benefit.

Senator Parr moved that SB 283 be moved from the committee with individual recommendations. The motion was passed with the following votes:

Do Pass: Senators Parr and Rodey
No Recommendation: Senators Hohman and Ray

With respect to SJR 25, Senator Ray provided an overview of events leading up to its introduction. Senator Ray expressed his concern that only one person testified before the Resource Committee, and it was his grievance against the Park Service which precipitated the resolution.

Language changes to SJR 25 proposed by committee members are shown on a copy of the Senate Amendment form attached to and made a part of his hearing summary.

Senator Ray moved that SJR 25 as amended be moved from Committee with individual recommendations. The resolution was moved from committee with the following votes:

Do Pass: Senators Ray & Hohman
Do Pass as amended: Senator Parr
No Recommendation: Senator Rodey

Hearing no objections, Chairman Rodey adjourned the meeting of the Senate Judiciary Committee at 2:30 p.m.

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PLEASE REPLY TO:
FIFTH AVENUE OFFICE

*Kevin
Lee
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RECEIVED

January 30, 1981

FEB 02 1981

The Honorable Patrick M. Rodey
Alaska Senate
Pouch V
Juneau, Alaska 99811

Dear ^{*Patrick*} Senator Rodey:

Brian Farney has asked that I write to you regarding the introduction of a bill which would clarify the offer of judgment interest adjustments contained in AS 09.30.055. The section was enacted during the last legislative session and was intended to act as an incentive for the settlement of civil cases without trial. As presently drafted, however, that section actually provides a disincentive to the settlement of cases since it does not operate unless the judgment is "more favorable to the offeree than the offer." In order to effectively operate as an incentive the statute should come into play when the judgment is not more favorable to the offeree than the offer. Enclosed is a copy of AS 09.30.055 with my suggested changes to make it effective for its intended purpose.

I. ank you for your assistance.

Very truly yours,

ABBOTT, LYNCH and FARNEY


Kenneth M. Rosenstein

KMR/mlc
Enclosure

Sec. 09.30.055. Offers of judgment. On or before the 60th day following the filing of an answer in a civil action, and on the fifth day following the day discovery closes as ordered by the court, either the party making a claim or the party defending against a claim may serve upon the adverse party an offer to allow judgment to be entered in complete satisfaction of the claim for the money or property or to the effect specified in his offer, with cost then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service, and the clerk shall enter judgment. An offer not accepted within 10 days is considered withdrawn and evidence of that offer is not admissible except in a proceeding to determine the form of judgment after verdict. If the judgment finally entered on the claim as to which an offer has been made under this section is more favorable to the offeree than the offer, the interest awarded under AS 45.45.010(a) and accrued up to the date judgment is entered shall be adjusted as follows:

not

reduced

- (1) if the offeree is the party making the claim, the interest rate shall be increased by two percent a year;
- (2) if the offeree is the party defending against the claim, the interest rate shall be reduced by two percent a year. (§ 3 ch 107 SLA 1980)

increased

PATRICK RODEY
ANCHORAGE

601 W. 5TH AVE. SUITE 820
ANCHORAGE, ALASKA 99501

DURING SESSION

POUCH V
JUNEAU, ALASKA 99811

Alaska State Senate

JUNEAU, ALASKA 99811

February 9, 1981

Kenneth M. Rosenstein
Abbott, Lynch and Farney
601 West 5th Avenue
Anchorage, AK 99501

Dear Mr. Rosenstein:

Thank you for your letter concerning Offers of Judgement
(AS.09.30.055).

I agree that the law currently is a disincentive to settle-
ment of cases in this area, and have submitted your suggested
amendments to the legal department for preparation of a
draft bill.

Your time spent to express your interest in, and comments on
this legislation, is greatly appreciated.

Sincerely,

Patrick M. Rodey
Senator

PMR/ds