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LETTER OF INTENT

CSSB 13

HOUSE JUDICIARY COMMITTEE

May 9, 1983

The Committee does not intend that the mere presence at the scene of a fire of a firefighter or other emergency responder would be sufficient in all cases to constitute danger of serious physical injury necessary to establish the crime of arson in the first degree. The existence of the necessary danger will be an issue of fact which must be determined by the trier of fact in each individual case.

SENATE LETTER OF INTENT

(SENATE BILL 13)

The Judiciary Committee has had under consideration SB 13, relating to the crime of arson. The Committee recommends that SB 13 be replaced with Committee Substitute for SB 13 (CSSB 13), and that CSSB 13 do pass.

Under Alaska Statute 11.46.400, a person, under certain circumstances set forth in the section, is guilty of the crime of arson in the first degree if by starting a fire or explosion, such person recklessly places another "person" in danger of physical injury.

However, in the Superior Court at Fairbanks, a trial judge instructed a jury, in an arson prosecution under AS 11.46.400, that "a fireman is not a 'person' within the crime of first degree arson", i.e., that one who starts a fire or explosion, thereby placing a fireman in danger of physical injury, has not thereby put a "person" in danger of physical injury within the meaning of the section cited. (State v. Markland, case no. 4FA S82-100 Criminal).

The Alaska State Firefighters Association has sought an amendment to prevent such an instruction from being given again. The Committee Substitute for SB 13 would make clear that for purposes of AS 11.46.400, public safety personnel and public employees responding to emergencies are "person[s]" whose reckless endangerment by another who intentionally causes a fire or explosion could be the basis of a prosecution under the statute.

During the Judiciary Committee's consideration of SB 13, a representative of the Alaska Department of Law expressed concern lest the Legislature, by changing AS 11.46.400 only, could be viewed by a Court as having intended to exclude public safety personnel and/or public employees responding to emergencies from the meaning of the word "person" or "persons" where those words appear elsewhere in Title 11.

There is no such intention. Rather, the Committee wishes to cure a specific problem which arose in a specific setting under one section of Title 11. It is the view of the Committee, respectfully, and as part of the traditional legislative oversight of judicial interpretations of statutory law, that the exclusion of fire fighters from the purview of the term "person", in AS 11.46.400, in the instruction of the trial judge, was a misapprehension of legislative intent and was unsupportable as public policy. The Committee wishes to avoid any similar misapprehensions of the meaning of AS 11.46.400 in future. The report of the Committee and the enactment of CSSB 13 should not be construed to reflect any legislative intent to exclude fire fighters, police officers, or other public safety personnel or public employees from the purview of the term "person" in other sections of Title 11. On the

contrary, it is rather the view of the Committee that no such exclusion can be reasonably found or implied, and thus, no other statutory changes are required.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

Expenditure Type
 Revenue Type

I. REQUEST

Bill/Resolution No. SB 13
Title Arson/First Degree
Requested by Senate Rules Date _____

II. FISCAL DETAIL

Agency Affected Department of Public Safety
Program Category Affected Administration of Justice
BRU, Program, Or Subprogram(s) Affected Alaska State Troopers
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | | | | | | |

FUNDING (Thousands of Dollars)

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|------------------------|-------|-------|-------|-------|-------|-------|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |
| | | | | | | |

POSITIONS

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|-----------|-------|-------|-------|-------|-------|-------|
| FULL TIME | | | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

No fiscal impact is anticipated

Office of Management and Budget
Reviewed by: Mike Maltby Program Budget Analyst
Division of Budget Review

IV. DATE January 19, 1983

PREPARED BY Francis C. Allan Phone 269-5691

Original: Legislative Finance
cc: Budget and Management

DIVISION State Troopers Initials mck
DEPARTMENT OF PUBLIC SAFETY Initials [Signature] 1/24/83



ALASKA STATE FIREFIGHTERS ASSOCIATION

HOUSE JUDICIARY COMMITTEE

Hearing on Committee Substitute for Senate Bill SB-13, relating to Crime

March 18, 1983

Mr. Chairman:

My name is E. Robert Haag and I represent the Alaska State Firefighters Association and the Alaska Fire Chief Association.

We wish to speak in favor of CSSB-13 now before your Committee.

We appeared before the Senate Judiciary Committee in January and February in support of SB-13. We did suggest a minor wordage change to the definition of "another person" in the Bill. This was considered by the Senate Judiciary Committee. A Committee Substitute was drafted, discussed and subsequently passed by the Committee. The full Senate passed the Bill without objections.

Mr. Chairman, we know that you have all the information concerning this Bill. Also you have a very busy schedule. Therefore, our hope is that your Committee will give serious consideration to the passage of this Bill so that it may become law at the earliest date.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

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FUNDING (Thousands of Dollars)

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|------------------------|-------|-------|-------|-------|-------|-------|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |

POSITIONS

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|-----------|-------|-------|-------|-------|-------|-------|
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Office of Management and Budget

Reviewed by: Mike Mader Program Budget Analyst
Division of Budget Review

IV. DATE January 19, 1983

PREPARED BY Francis C. Allan Phone 269-5691

DIVISION State Troopers Initials mck

Original: Legislative Finance
cc: Budget and Management

DEPARTMENT OF PUBLIC SAFETY Initials [Signature]

1/24/83

SB 13 TITLE & SPONSOR SUMMARY

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AMENDED TITLE: CSSB 13

AN ACT RELATING TO THE CRIME OF ARSON IN THE FIRST DEGREE

PRIME SPONSOR: ZIEGLER.

CO-SPONSORS:

CURRENT STATUS: 2/14/83 IN (H) JUDICIARY

| DATE | SEQ | PAGE | LEGISLATIVE ACTION |
|----------|-----|------|---|
| 01/18/83 | 01 | 0022 | FIRST READING -- COMMITTEE REPORTS |
| 02/01/83 | 02 | 0106 | JUD -- CS04 |
| 02/01/83 | 03 | 0106 | JUD CMTE LETTER OF INTENT |
| 02/11/83 | 04 | 0169 | RLS -- OTHER04 TAKEN UP IMMEDIATELY |
| 02/11/83 | 05 | 0169 | RLS CMTE ZERO F/NOTE |
| 02/11/83 | 06 | 0171 | SECOND READING |
| 02/11/83 | 07 | 0171 | JUD CS ADOPTED BY UNAN CONSENT |
| 02/11/83 | 03 | 0171 | SEN LETTER OF INTENT |
| 02/11/83 | 09 | 0171 | ADVANCED TO 3RD READING BY UNAN CONSENT |
| 02/11/83 | 10 | 0171 | THIRD READING |
| 02/11/83 | 11 | 0171 | PASSED BY DIV 19-00-01 |
| **** | ** | ** | *** ** * |

| DATE | SEQ | PAGE | LEGISLATIVE ACTION |
|----------|-----|------|------------------------------------|
| 02/14/83 | 12 | 0241 | FIRST READING -- COMMITTEE REPORTS |
| 02/14/83 | 13 | 0241 | SEN LETTER OF INTENT |
| | | | JUDICIARY |
| | | | RULES |
| **** | ** | ** | *** ** * |