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COMMITTEE REPORT
SENATE

FURTHER:

Date _____

Mr. President

The Committee on _____ considered _____

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

COMMITTEE REPORT

SENATE

FURTHER:

Date _____

Mr. President

The Committee on _____ considered _____

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title _____
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

- CALONGAR -



ALASKA STATE LEGISLATURE - SENATE
COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811
(907) 465-3844

OFFICIAL BUSINESS

MEMORANDUM

TO: Sen. Bill Ray, Chair
Senate Judiciary Committee

FROM: Sen. Dick Eliason *[Signature]*

DATE: March 9, 1984

RE: SB 427 - "An Act repealing the pooled music copyright law"

As requested I reviewed the above-referenced legislation and I am now reporting my findings to you.

This legislation will repeal AS 45.50.330-45.50.460, which requires persons holding certain pooled copyrights on musical works to file lists of these copyrights with the State. The purpose of these filings is to allow the public to "avoid using the copyrighted compositions and to avoid conflict with them". In fact, however, no one ever examines these filings any more. In 1983 only one person examined the files in the Department of Revenue or the duplicate files at the Department of Administration.

Repeal of the state law would not make the information unavailable to the Alaskan public. Federal copyright laws require the same information to be filed with the Copyright Office, and copies of the lists of copyrighted materials may be purchased from the Federal Superintendent of Documents. A new list is published every six months.

Additional back-up information is attached.

Position Paper

SB 427

February 28, 1984

This bill will repeal AS 45.50.330-45.50.460, which requires persons holding certain pooled copyrights on musical works to file lists of these copyrights with the State.

The Department of Administration believes that AS 45.50.330-45.50.460 should be repealed and, therefore, favors passage of this legislation.

We feel that the statute is unnecessary and of no significant benefit. In the past eight months only one person has inquired about filing information. We anticipate no staff reduction due to passage since it is one of the minor miscellaneous duties of a secretary.

Frances H. Rose
Frances H. Rose
Special Assistant to the Commissioner
Department of Administration

2/29/84
Date

A. Blum for
Commissioner Lisa Rudd
Department of Administration

3-1-84
Date

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: February 28, 1984

Page 1 of 2

REQUEST

Bill/Resolution No.: SB 427
 Title: An Act repealing the pooled music copyright law
 Sponsor: Fahrenkamp
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected: _____
 BRU, Program of Subprogram(s) Affected: _____
 Commissioner's Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS: None

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Frances H. Rose *Frances H. Rose*
 Division: Commissioner's Office

Phone: (907) 465-2200
 Date: 2-29-84

Approved by Commissioner: Lisa Rudd *L. Rudd*
 Agency: DEPARTMENT OF ADMINISTRATION

Date: 3-1-84

Distribution (by Agency preparing fiscal note):
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THOMAS K. WILLIAMS

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BOGLE & GATES
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
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PLEASE REPLY TO ANCHORAGE OFFICE

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SEATTLE, WASHINGTON 98104
CABLE "BOGLE SEATTLE"
(206) 992-5161 TELEX: 32-1087

WASHINGTON, D. C. OFFICE
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WASHINGTON, D. C. 20005
(202) 293-2600 TELEX: 89-7410

February 15, 1984

The Hon. Bill Ray, Chairman
Senate Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Senate Bill No. 427 (Our File No. 1221/01249)

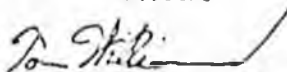
Dear Senator Ray:

The enclosed letter explains in somewhat more detail why SB 427 (repealing Alaska's 1939-vintage law on pools for licensing the public performance of copyrighted music) should be passed.

My initial reaction if I were in your position would probably be to do nothing with this legislation unless I was sure in my own mind that there was no further need for these laws and that the interests of the Alaskan public would not be compromised by such a repeal, so I can understand it if your feelings are similar. However, there really are sound reasons for repealing these laws, and the public will not be harmed by doing so. With all respect, I urge you to schedule a hearing of the Judiciary Committee on this bill in the near future, so that you can satisfy yourself whether such is the case or not. Additional reasons for repeal, besides those in my letter, could also be presented and explained at such a hearing.

Very truly yours,

BOGLE & GATES



Thomas K. Williams

cc (w/ encl.): Senate Judiciary Committee Members

Edward W. Chapin, Broadcast Music, Inc.

HELENE M. ANTEL
MICHAEL W. DUNDY
BRIAN W. DURHELL
DAVID R. MILLEN
DOUGLAS S. PARKER
JAMES N. REEVES
THOMAS K. WILLIAMS

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(202) 243-3600 TELEX: 89-7410

February 15, 1984

The Hon. Bill Ray, Chairman
Senate Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Senate Bill No. 427
(Our File No. 1221/01249)

Dear Mr. Chairman:

I am writing for myself and on behalf of our client, Broadcast Music, Inc. ("BMI"), to advise that we support the passage of SB 427, which would repeal Alaska's pooled-music copyright law (AS 45.50.330 - 45.50.460). This law, which was passed in 1939, has become badly outdated as circumstances have changed and the federal copyright statutes have been comprehensively rewritten in the 45 years since then.

The Alaska law applies to societies or organizations like BMI and ASCAP, which are formed by owners of the copyrights to copyrighted musical works to license the public performance of those works on behalf of the copyright owners. Such organizations then collect royalties from the public performances and distribute them back to the copyright owners.

Essentially, the Alaska law requires each such organization to file each year a list of all the copyrighted musical compositions that it licenses. The purpose of these filings is to allow the public to "avoid using the copyrighted compositions, if they so desire, and [to] avoid conflict with them, and avoid committing innocent infringements of the works." AS 45.50.330. In fact, however, no one ever examines these filings any more. In 1983 not one person examined the files at

Senator Bill Ray
February 15, 1984
Page 2

the Department of Revenue or the duplicate files at the Department of Administration.

Repeal of the state law would not make the information unavailable to the Alaskan public. Federal copyright laws require the same information to be filed with the Copyright Office, and copies of the lists of copyrighted materials may be purchased from the federal Superintendent of Documents. A new list is published every six months.

A further reason for repealing the Alaska law is the great change in conditions from those in 1939. At that time there was only one organization licensing the performance of copyrighted music, and its dominant position allowed abuses that prompted Florida, Montana, Nebraska, Tennessee, Wyoming and Washing, as well as Alaska, to enact remedial legislation in the late 1930s. Since that time other licensing organizations have been formed, so that there is more competition and less opportunity for monopolistic abuse. Moreover, the two largest organizations, ASCAP and BMI, operate under direct supervision of the federal courts, pursuant to their respective consent decrees that were entered in federal antitrust litigation against them.

In 1976 Congress passed a comprehensive revision of the federal copyright statute, effective January 1, 1978. This legislation replaced the dual system of copyright laws, one federal and the other by the states, and created a unified federal system instead. This complete federal system eliminates the need for state laws to "fill in the gaps" that had been left in prior federal copyright law. Congress not only eliminated the need for state copyright laws with the enactment of its comprehensive federal system, but it also eliminated the state laws themselves by exercising its preemption power (see 17 U.S.C. § 301) under the Supremacy Clause of the United States Constitution.

As the result of these changes, the states that enacted legislation in the late 1930s to remedy the then-prevailing abuses with music copyrights have repealed their statutes, except for Alaska. It is time for us to recognize these changes as our sister states have done.

Senator Bill Ray
February 15, 1984
Page 3

Finally, it is not easy or cheap to prepare these filings with the State. Each report by ASCAP, for example, takes up about half of a full-sized drawer in a filing cabinet. By the same token, it is not cheap for the State to keep these voluminous files. Yet the continued presence of these laws on the books requires both the filers and the Departments of Revenue and Administration to suffer these needless expenses.

Had I been personally aware of this situation when I was still Commissioner of Revenue, I would have advocated repealing these statutes as a prime example of wasteful, pointless paperwork imposed by state government on the public. It is our understanding from the officials in the State of Washington that they have been pleased by the repeal of that state's pooled-music law in 1982 and by being relieved from keeping the massive files required under that law. I believe the Departments of Revenue and Administration would likewise wish to be spared the time, expense and space that are needed for their files under Alaska's law.

The biggest problem with a bill like SB 427 is that there is no large constituency to support it. Clearly, the public is indifferent to whether these filings continue or not, since no one ever looks at them. There is only a small handful of organizations that are subjected to the burden of filing. Without a constituency to support such a bill, the easiest course is simply not to advance it out of committee.

I respectfully urge you not to let the bill die, but to hold a hearing on it before your committee. If possible, please schedule such a hearing in the near future so that, if you are satisfied that these statutes are no longer necessary to protect and promote the interests of the public, there will still be time for the bill to have a realistic chance of passage during this Session.

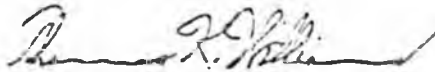
Please do not hesitate to call me at 276-4557 or to write me at the address above, if you have any questions on this subject or if you decide to hold a hearing on the bill. I can arrange for testimony before the committee on behalf of BMI if there is to be a hearing.

BOGLE & GATES

Senator Bill Ray
February 15, 1984
Page 4

Very truly yours,

BOGLE & GATES

A handwritten signature in dark ink, appearing to read "Thomas K. Williams", written in a cursive style.

Thomas K. Williams

cc: Members of the Senate Judiciary Committee

Edward W. Chapin, Counsel
Broadcast Music, Inc.

LAW OFFICE OF
ELY, GUESS & RUDD

A PROFESSIONAL CORPORATION
318 4TH STREET
JUNEAU ALASKA 99801
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510 L STREET
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WILLIAM GUESS 1932-1976
JOSEPH RUDD 1933-1978
ROBERT C. ELY
THEODORE E. FLEISCHER
FRANCIS C. SMITH, JR.
WERNER BERKOWITZ
MICHAEL S. BRISGS
DAVID H. BUNDY
HARRIS SAXON
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JOSEPH A. MELEAN, OF COUNSEL
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TRICIA COLLINS
JOHN A. McDONAGH
PAUL S. STAHL

* ADMITTED IN D. C. AND ALASKA
OTHERS ADMITTED IN ALASKA

May 18, 1983

Ms. Gladys Williamson
Department of Administration
Pouch "C"
Juneau, Alaska 99811

Re: American Society of Composers, Authors
and Publishers
Our File No. 3300.10

Dear Ms. Williamson:

This letter is written with reference to our recent telephone conversations regarding the documents and other materials filed each year on behalf of the American Society of Composers, Authors and Publishers (ASCAP). Under requirements of AS 45.50.330-.460, the original of the filing is delivered to the Department of Revenue and a duplicate copy is filed with the Commissioner of Administration for public review.

It is my understanding that apparently there has been little, if any, public review of these documents since the law was enacted. The Alaska statute had been based on the Washington state law, which was repealed this year apparently because nobody had made use of the public review provision. Accordingly, it may be appropriate to consider possibly seeking repeal of the Alaska statute for the same reason, thus cutting down on the paperwork and archival requirements of the State. Any such repeal effort, however, would not be undertaken until the 1984 legislative session.

In the meantime, and in order to help ascertain whether in fact any use is being made of the documents on file for public review, it would be appreciated if you would attach to the documents in your office a sign-up/tally sheet similar to the enclosed sample. It would merely have any person reviewing the documents note this fact and the date of his or her review so that early in 1984 a compilation of that

Ms. Gladys Williamson
Page -2-
May 18, 1983

information could be provided to the Legislature to support
the repeal effort.

Thank you in advance for your assistance in this matter.
If you have any questions, please let me know.

Very truly yours,

ELY, GUESS & RUDD

Gordon E. Evans
Gordon E. Evans

Enclosure:

cc: Francis E. Smith, Jr., Esq.

GEE/pm

AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS

LIST OF PERSONS REVIEWING ANNUAL FILING
OF COPYRIGHTED WORKS OF ASCAP MEMBERS

Name (Printed)	Signature	Date

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date _____

REQUEST

Bill/Resolution No: SB 427
 Title: Act repealing the pooled music copyright law.
 Sponsor: Fahrenkamp
 Requestor: Senate Judiciary
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: Commissioner's Office
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	-	-0-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-0-	-	-	-	-
CAPITAL	-	-0-	-	-	-	-
REVENUE	-	-0-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-0-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis.

Prepared By: Bruce M. Botelho
 Division: Revenue

Phone: 465-2300
 Date: 03/07/84

Approved by Commissioner: *Ralph O. Scott*
 Agency: Revenue

Date: 3/8/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Analysis for SB 427

The Department of Revenue is in favor of repeal of sections AS 45.50.330-45.50.460. In the last five years the department has had only one request for information pertaining to these statutes. It is important to note that Alaska is the only state in the Union that continues to have such a law on its books.