

HB

503



Official Business

Alaska State Legislature

Sen Pat Roddy

Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V
Juneau, Alaska 99811
(907) 465-4954

MEMORANDUM

TO: Senate State Affairs Committee

FROM: Senator Vic Fischer, Chair
Senate State Affairs Committee

RE: Proposed CS for HB 503 Pioneer home allowances

DATE: May 21, 1984

Attached is a proposed State Affairs CS for HB 503. The CS includes the four changes we agreed on during our last committee meeting.

1. We deleted from page 2, beginning line 10, the language "and not recoverable from a collateral source." This language was deleted because the division cannot collect medical expenses from 3rd parties.
2. We added the words "and support" on page 2, line 12 to parallel the language on line 3 of page 2.
3. We changed the word "debt" on page 2 line 22 to "indebtedness" to parallel the language on line 7 of page 2.
4. We changed the definition of "heirloom" by deleting "or was a gift to the resident," and adding "or was a gift from the resident to the resident's family."

If you have any problems with the CS, please let me know as soon as possible.

Thanks.



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Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V

Juneau, Alaska 99811

(907) 465-4954

MEMORANDUM

TO: Senate State Affairs Committee
FROM: Senate State Affairs Committee Staff
RE: HB 503 Pioneer home allowances
DATE: May 10, 1984

HB 503 is the house version of SB 323 which was passed out of committee in February. The major provision in these two bill is to raise the allowance to qualifying Pioneer Home residents from \$35 to \$100 a month.

The committee recommended including SB 405 in SB 323. That action was agreed to by Senator Josephson, the sponsor of SB 405. SB 405 addressed the notification procedure of rate changes in the homes. SB 405 was included in SB 323 in a Finance Committee Substitute for SB 323.

For the most part, the proposed CS before parallels CSSB 323 Finance.

Sectional Analysis of Senate State Affairs version of HP 503.

Section 1: Increases the allowance to qualifying Pioneer Home residents from \$35 to \$100 a month; states that any money in excess of the stipend may be required by the Department of Administration (Same as CSSB 323 Finance).

Section 2: States that the money collected by the Department of Administration shall be transferred by the Commissioner of Revenue; raises from \$35 to \$100 the amount paid to Pioneer Home Residents without funds (Same as CSSB 323 Finance).

Section 3: Requires the Department of Administration to establish in regulation the daily or monthly rate charged to the resident to compensate the state, and requires the department to review the regulations at least every two years (This section 3 includes both section 3 and section 4 of CSSB 323 Finance).

Section 4: Outlines the expenses for which the resident of the home is responsible, states that the debt to the state is the first claim against the residents estate; exempts heirlooms from a claim by the state; defines that money left in charge of Department of Administration by a deceased resident shall be used for burial purposes; outlines the method by which personal effects of the deceased resident are to be dispersed; defines heirloom as a piece of personal property of sentimental value to the resident, or was a gift to the resident.

The definition of "heirloom" has been changed from the definition in SB 323. The requirement that the heirloom be in the possession of a resident's family for 10 years or more has been deleted.

Section 5: Adds an immediate effective date to the bill.

Editor's note. — As to the purpose of ch. 126, SLA 1977, see editor's note to AS 47.23.010.

Sec. 47.23.280. Severability: Alternative when method of notification held invalid. If any provision of this chapter or the application of it to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. If any method of notification provided for in this chapter is held invalid, service as provided for by the laws of the state for service of process in a civil action shall be substituted for the method held invalid. (§ 29 ch 126 SLA 1977)

Editor's note. — As to the purpose of ch. 126, SLA 1977, see editor's note to AS 47.23.010.

Chapter 25. Destitute and Needy Persons.

Article

1. Pioneers' Home (§§ 47.25.010 — 47.25.110)
2. General Relief Assistance (§§ 47.25.120 — 47.25.300)
3. Aid to Families with Dependent Children Act (§§ 47.25.310 — 47.25.420)
4. Old Age Assistance (§§ 47.25.430 — 47.25.610)
5. Aid to the Blind (§§ 47.25.620 — 47.25.780)
6. Aid to the Permanently and Totally Disabled Act (§§ 47.25.790 — 47.25.970)
7. Food Stamp Program (§§ 47.25.975 — 47.25.990)

Article 1. Pioneers' Home.

Section	Section
10. Maintenance of Alaska Pioneers' Home	60. Trust fund.
20. Admission to home	70. Indebtedness of beneficiary to state
30. Admission on payment	80. Enforcement against estate
35. Exception to admission criteria	90. Enforcement against property outside state
40. Transfer of insane inmates to asylum or sanitarium	100. Certificate as evidence
50. Maintenance funds	110. [Repealed]

Sec. 47.25.010. Maintenance of Alaska Pioneers' Home. (a) The state shall maintain an institution for the care of needy persons, known as the Alaska Pioneers' Home. The principal home shall be maintained at Sitka, and a branch may be maintained at a site or sites designated by the commissioner of administration.

(b) The Department of Administration shall formulate general policies, but has no administrative or executive functions other than those set out in AS 47.25.010 — 47.25.110. It may hold hearings and subpoena witnesses and documents and may administer oaths in connection with them.

§ 47.25.010

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§ 47.25.020 WELFARE, SOCIAL SERVICES AND INSTITUTIONS § 47.25.020

(c) The Department of Administration shall

(1) cooperate with the federal government in matters pertaining to the welfare of Alaskan pioneers, make the reports in the form and containing the information the federal government from time to time desires, and accepts funds allotted by the federal government, its agencies or instrumentalities, in establishing, extending and strengthening services for pioneers of Alaska;

(2) adopt regulations necessary for the conduct of the business of the Pioneers' Home and for carrying out the provisions of AS 47.25.010 — 47.25.110, require bonds and undertakings from persons employed by it as in its judgment are necessary, and pay the premiums on them, and establish regional and local offices and the advisory groups which are necessary or considered expedient to carry out or assist in carrying out a duty or authority assigned to it;

(3) perform all executive or administrative duties necessary and advisable to carry out the purpose of AS 47.25.010 — 47.25.110, including the power to make contracts and to make disbursements on vouchers against funds for the purpose of AS 47.25.010 — 47.25.110, within the limit of funds available;

(4) study the needs of Alaska's pioneers and submit recommendations for new rules, regulations and proposed legislation;

(5) prepare an annual report to the legislature.

(d) The Department of Administration may employ the necessary subordinate officers and employees, and shall prescribe methods for operation of the Pioneers' Home, standards of care and service to residents, and rules governing personnel and rewarding employees on a merit basis. (§ 51-2-11(a) (c) ACLA 1949; § 51-2-12 ACLA 1949; am § 1 ch 71 SLA 1963; am Executive Order No. 30 (1968); am §§ 1, 2 ch 11 SLA 1979)

Effect of amendment. — The 1979 substituted "residents" for "inmates" in amendment deleted "north and west of subsection (d). Yakutat" from the end of subsection (a) and

Sec. 47.25.020. Admission to home. (a) Every worthy person residing in the state who has been a resident of the state continuously for more than 15 years immediately preceding his application for admission, and who is destitute and in need of the aid or benefit of the home because of physical disability or other cause, is entitled to admission to the home under the conditions, limitations and penalties prescribed by the regulations of the Department of Administration. No person may be admitted as a resident of the Alaska Pioneers' Home under the provisions of AS 47.25.010 — 47.25.110, if the support and maintenance of the person is imposed by law upon a relative or member of the family of the person.

(b) Every person admitted to the Pioneers' Home, except a person admitted under AS 47.25.030, who receives income from any source in

excess of \$35 a month may be required by the Department of Administration to pay the excess to the Department of Administration immediately upon receipt of the money in payment, or part payment, of the cost of his maintenance.

(c) At the end of each month the payments made under (b) of this section shall be transmitted to the commissioner of revenue together with the names of the persons making them and the amount paid by each. The Department of Administration may pay the sum of \$35 a month to a resident without funds.

(d) The money received by the commissioner of revenue shall be deposited in the general fund. (§ 51-2-13 ACLA 1949; am § 1 ch 158 SLA 1955; am § 1 ch 118 SLA 1957; am § 1 ch 89 SLA 1961; am § 1 ch 63 SLA 1965; am Executive Order No. 30 (1968); am §§ 1, 2 ch 7 SLA 1971; am § 3 ch 11 SLA 1979)

The 1979 amendment substituted "resident of" for "guest to" in the second sentence of subsection (a).

Legislative history report. — For report on ch. 7, SLA 1971 (SB 70), see 1971 House Journal, p. 217.

Sec. 47.25.030. Admission on payment. A citizen of the United States over 65 years of age who is a resident of the state and has been a resident for not less than 15 years continuous on application, he admitted his application, but who is not destitute, may be state a sum for each day to the home upon his agreement to pay to the state a sum for each day as the Department of Administration considers sufficient to compensate the state for the cost of care and support of the person at the home. When this agreement is entered into the Department of Administration may receive the security for the payments, which it considers expedient. (§ 51-2-14 ACLA 1949; am § 2 ch 89 SLA 1961; am Executive Order No. 30 (1968))

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Sec. 47.25.035. Exception to admission criteria. An applicant for admission to the home who has been a resident of the state for 30 years and is otherwise qualified for admission under AS 47.25.020 or 47.25.030 may not be disqualified for admission because of absence from the state if the commissioner of administration determines the absence was reasonable, and admission is consistent with the intent of this chapter. (§ 2 ch 89 SLA 1978)

Sec. 47.25.040. Transfer of insane inmates to asylum or sanitarium. A person regularly admitted into the home who is found to be insane may be transferred to an institution provided for the care and custody of insane persons for the state in the manner provided by law for the admission of other persons to the institution. (§ 51-2-15 ACLA 1949)

Sec. 47.25.050. Maintenance funds. The legislature shall each session appropriate the necessary funds for the maintenance of the

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home to be expended by the Department of Administration, and that department may receive funds, donations and bequests from private individuals, societies or organizations, and funds from the federal government for the support and maintenance of the home. (§ 51-2-16 ACLA 1949; am Executive Order No. 30 (1968))

Sec. 47.25.060. Trust fund. Unless otherwise provided by the donor, all money bequeathed to the Alaska Pioneers' Home constitutes a special trust, and shall be deposited in a special fund designated the "Alaska Pioneers' Home Trust Fund." Unless otherwise provided by the donor, interest from this fund is under the control, and at the disposal of the Department of Administration, and expenditure from it is limited to the benefit and comfort of the residents of the home. (§ 51-2-17 ACLA 1949; am Executive Order No. 30 (1968))

Sec. 47.25.070. Indebtedness of beneficiary to state. (a) An expense incurred for a person under AS 47.25.010 — 47.25.110 with interest at a rate of six per cent a year from date of payment, is a debt to the state and may be recovered during the life of the beneficiary. The debt is a first, prior and preferred claim against the estate of the beneficiary after his death, and after all claims for food, clothing, fuel, shelter, medical aid or burial expenses are paid.

(b) Money left in charge of the Department of Administration by a deceased resident of the Pioneers' Home may be used for the burial and funeral expenses of the deceased resident and for the improvement of the burial plot of the Alaska Pioneers' Home.

(c) The clothing and other personal effects left by a deceased resident of the home may be used for the benefit of other residents, or may be given to relatives or sold and the proceeds applied in the manner provided for money left by a deceased resident. (§ 51-2-101 ACLA 1949; am Executive Order No. 30 (1968); am §§ 4, 5 ch 11 SLA 1979)

Effect of amendment. -- The 1979 amendment substituted "deceased resident" for "deceased inmate" in two places in subsections (b) and (c) and substituted "other residents" for "other inmates" in subsection (c).

Conduct of decedent entitling claim of state to priority. -- Where (1) the decedent swears initially and annually thereafter

that she owns no property, although during all that time she has approximately \$10,000 in cash; and (2) the transfer thereof is without consideration, the claim of the state is entitled to priority in conformity with the provisions of this section. In re Jackson's Estate, 15 Alaska 116, 123 F. Supp. 143 (D. Alas. 1954).

Sec. 47.25.080. Enforcement against estate. If a beneficiary under AS 47.25.010 — 47.25.110 dies leaving an estate in the state, the attorney general, or the Department of Administration, shall file with the executor or administrator, or with the probate court, the claim of the state against the estate, and the attorney general shall take the steps necessary to enforce and collect the claim. Money collected shall be paid into the treasury of the state. (§ 51-2-102 ACLA 1949; am § 1 ch 46 SLA 1957; am Executive Order No. 30 (1968))

Applied in *In re Jackson's Estate*, 15 Alaska 116, 123 F. Supp. 143 (D. Alas. 1954).

Sec. 47.25.090. Enforcement against property outside state. If a beneficiary under AS 47.25.010 — 47.25.110 dies leaving property outside the state, the attorney general on direction of the governor shall take the steps with respect to the property which will protect and secure the rights of the state as a creditor. (§ 51-2-103 ACLA 1949)

Sec. 47.25.100. Certificate as evidence. A certificate by the attorney general to the effect that a decedent was a beneficiary under AS 47.25.010 — 47.25.110 and that the state has a claim against his estate, is prima facie evidence of these facts in a proceeding in the courts of the state. (§ 51-2-104 ACLA 1949; am § 2 ch 46 SLA 1957)

Sec. 47.25.110. When not applicable to Indians and Eskimos.
Repealed by § 1 ch 118 SLA 1968.

Editor's note. — The repealed section derived from § 51-2-1. ACLA 1949.

Article 2. General Relief Assistance.

Section	Section
120. Eligibility for assistance	240. Action against person liable for care of recipient
130. Amount of assistance	250. Temporary relief
140. Residence in institution	255. [Repealed]
150. Application for assistance	260. Recovery and disposition of allowances improperly granted
160. Investigation of applicant	265. Cancellation of warrants
170. Granting of assistance	270. Agreements with federal government
180. Appeal	280. Obtaining assistance by fraud
190. Payment to guardians	290. Penalty for violation
200. Review of eligibility	300. Definitions
210. Alienation and attachment	
220. State's claim for assistance	
230. Persons liable for support and burial	

Sec. 47.25.120. Eligibility for assistance. Financial assistance may be given under AS 47.25.120 — 47.25.300, so far as practicable under the conditions in this state, to a needy person who is eligible under the regulations of the department. (§ 2 ch 110 SLA 1953; am § 1 ch 38 SLA 1957)

A statutory prohibition of welfare benefits to residents of less than a year creates a classification which constitutes an invidious discrimination denying such residents equal protection of the laws. *Shapiro v. Thompson*, 394 U.S. 618, 89 S. Ct. 1322, 22 L. Ed. 2d 600 (1969).

Am. Jur. and ALR references. — 41 Am. Jur., Poor and Poor Laws, § 1 et seq.

Liability of governmental agency for medical or surgical services rendered to poor person in emergency, without expressed authority, 93 ALR 900.

Status of one as poor person for purpose of statute entitling him to relief as affected by extent of his financial resources, 98 ALR 370.

POSITION PAPER

CSSSHB 503

This bill increases the monthly stipend paid to certain qualified residents (who are otherwise without funds) of Alaska's Pioneers' Homes from the current \$35 to \$100. The current \$35 stipend is clearly too little and therefore, an increase is indicated.

AS 47.25.020(b)(c)

Sixty-one residents, or just under 10% of all residents of the Pioneers' Home system presently receive the \$35 stipend. However, the full effect of the recent monthly rate increase to residents has not yet been felt, and it is anticipated that the estimates of stipend costs for FY 85 are more accurately reflected in the operating budget which includes funds for 154 persons (\$63,000). The Division of Pioneers' Benefits estimates that, should this bill become law, the number of residents who would qualify for the monthly stipend would be increased to as many as 165 residents, due to more people having less than \$100 in monthly income. \$100 is a 286% increase over the current \$35.

AS 47.25.030(b)(c)(d)

This bill also amends the statutes by requiring the Department of Administration to "adopt regulations establishing a daily or monthly rate for compensation a resident is to be charged." The Commissioner of the Department of Administration is moreover required to "review the rate each year." The Department supports the portion of the bill mandating the adoption of regulation establishing the "rate for compensation," but believes that an annual review may be too confining. The Department prefers that the rates be reviewed biannually.

AS 47.25.030(c)(d)

This bill would require all residents of the Pioneers' Homes to be notified in writing of any proposed increase in the rate charged not less than sixty days before increase is adopted. This bill would allow rate increases only, following public hearings. The Department supports a sixty-day notification period. The Department feels that an annual review process, as mandated by this bill, could involve more frequent public hearings (conceivably as often as annually). We know the actual costs of care in Pioneers' Homes increase over time. We are not confident that in public hearings residents would encourage rate increases. Regular public forums on costs of care could also raise the question of relative costs compared to care in private settings.

AS 47.25.070(a)

This bill reforms the language of the statute concerning "indebtedness of Pioneers' Home resident(s) to the State." Whereas the Department in general supports such reforms, we suggest the use of the words "ancillary charges" in lieu of the following language:

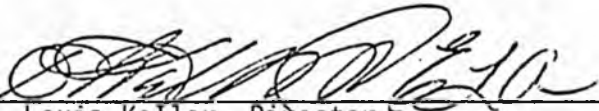
- (2) allowances paid under AS 47.25.020(c);
- (3) costs of hospitalization and medical treatment provided outside the Pioneers' Home;

- (4) arrearages in fees for television and telephone services provided in the Pioneers' Home;
- (5) prescription medicine; and
- (6) burial and related expenses.

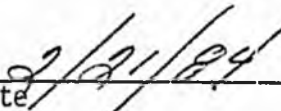
AS 47.25.070(b)

This bill would also amend the statute by removing an existing six percent (6%) interest penalty on unpaid expenses incurred at a Pioneers' Home by a resident, and collectible from the beneficiary(s) of a resident's estate. This bill would moreover establish an exemption for "heirlooms without regard to value." The word "heirloom" is also defined.

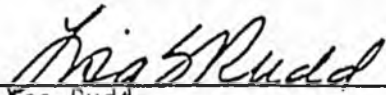
The Department generally supports this bill and is on record specifically supporting an increase in the monthly stipend.



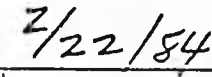
E. Louis Keller, Director
Division of Pioneers' Benefits



Date



Commissioner Lisa Rudd
Department of Administration



Date

Alaska State Legislature



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HOUSE SPECIAL COMMITTEE
ON STATE LOANS

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Date: February 10, 1984
To: Rep. Mitch Abood
Chair, State Affairs Committee
From: Rep. Rick Uehling
Subject: CS HB503 (State Affairs)

The Committee Substitute addresses the two major concerns of the original bill:

1. Raising the monthly allowance from \$35.00 to \$100.00.
2. Allows personal property of the resident to be passed on to the family in the event the resident incurs a debt to the state. The Committee Substitute deletes the \$10,000 exemption and replaces it with an exemption for heirlooms without regard to value, and defines heirlooms as personal property of sentimental value to a Pioneer resident that has been in the family for ten years or more, or was a gift to the resident.

Additionally, the Committee Substitute addresses several concerns of the Pioneer Home residents and attempts to clarify in statute, procedures for establishing and raising of rates, and specifies which expenses the state is allowed to recover as debts to the state. Furthermore, the Committee Substitute makes technical changes to clarify whom the statute pertains to. The Committee Substitute also addresses a request by the residents to allow them to designate a person, other than a relative, to handle their clothing and other personal effects after they are deceased.

Memo. / Re. Rick Uehling 2/10/84