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DOT denies 'gag order' rule despite conflicting evidence

Associated Press

Juneau — Some Alaska Department of Transportation employees have been advised that "freedom of speech and other constitutional guarantees" pertain only to their personal lives.

State Sen. Pappy Moss, D-Delta Junction, released a copy Friday of a department memo he says proves the existence of a "gag order" imposed on department personnel.

The contents of the memo were outlined in a dispatch from the Juneau bureau of the Fairbanks Daily News-Miner.

On Feb. 16, Harold Moeser, chief of the department's Southeast Harbors and Marine Facilities, wrote to Bob Beck, a harbor design chief who had responded to questions from a Petersburg reporter about that community's new boat harbor.

"Must I remind you and your staff again, not to talk to newspapers and legislators," Moeser wrote. "Record the questions that are being asked and inform them they will have answers as soon as possible."

On the back of the memo was a note apparently handwritten by Beck. It said, "My goof, but all

staff please be advised that official gag order still exists and that freedom of speech and other constitutional guarantees only pertain to your private lives."

Moeser said the memo was intended only to make sure the department "speaks with a uniform voice."

He said transportation department employees have been asked to defer questions of policy to the commissioner's office, but

are permitted to answer some questions about facts.

Transportation Commissioner Dan Casey in February denied his personnel had been ordered not to talk to the press or lawmakers.

Moss and other legislators have criticized the Sheffield administration for what they say is a lack of cooperation in responding to their questions.

BEING HASSLED?



Bud has all the answers

TELL IT TO

Bud

The Anchorage Times

Box 40, Anchorage, Alaska 99510

Please include name & address

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: SB 218
 Title: Relating to Disclosure of Information
 Sponsor: V. Fischer
 Requestor: Senate State Affairs

II. FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected:
 BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|-------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC | | | | | | |
| TOTAL OPERATING | | 0 | 0 | 0 | 0 | 0 |

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|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
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| REVENUE | | | | | | |
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FUNDING: (Thousands of Dollars)

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|------------------------|-------|-------|-------|-------|-------|-------|
| GENERAL FUND | | 0 | 0 | 0 | 0 | 0 |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis- some staff time and xeroxing costs will be associated with each Request for Information. Requests will*

Prepared By: Anselm Staack *A. Staack* Phone: 465-2200
 Division: Administration Date: 4/1/83

*need to be made in a timely manner.

Approved by Commissioner: Lisa Rudd *L.R.* Date: April 4, 1983
 Department: Administration

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



April 14, 1983
3:00 p.m.

Butrovich Room
Capitol Bldg.

Members Present

Senator Vic Fischer, Chair
Senator Bill Ray, Vice Chair
Senator Arliss Sturgulewski
Senator Pat Rodey
Senator Tim Kelly

HB 79--Peremptory challenge of judges

Representative Fritz (prime sponsor) read a prepared statement in favor of the bill. He gave a history of peremptory challenge statute and discussed the situation in Homer where Judge Hornaday has been removed from up to 80% of his cases by defense attorneys, allegedly in response to tough drunk driving sentences handed down by Hornaday.

Senator Ray moved and asked unanimous consent that the bill be waived to the next committee of referral (Judiciary). There was no objection.

SB 220--Establishing a capital projects advisory commission

Senator Josephson (prime sponsor) testified in favor of the bill. He stated that this bill was modeled after a successful New Jersey statute. He observed that many legislators, the governor and the public have problems with the current method of allocating capital projects whereby each house of the legislature and the Governor have absolute discretion to pick projects equal to 1/3 of the revenues available. He read a letter from the Governor in support of the concept presented in the bill.

Senator Fischer commented that the time-frames in the bill did not mesh with the budget process. Senator Josephson said that he was not opposed to improving the mechanics of the legislation.

Senator Kelly was of the opinion that an appointed commission would not necessarily make better decisions than an elected 60 member legislature.

Senator Sturgulewski said that she felt that this bill was adding another patch to an already unworkable system.

Senator Ray felt that this bill is a "typical text book solution" that looks good on paper but wouldn't work in reality.

Senator Rodey said that he didn't see any other alternative for improving the present system.

Peter McDowell, Director of O.M.B. said that the Governor wholeheartedly supports this legislation in principle but that the details would have to worked out. He did not favor the creation of another Commission, however.

No action was taken on the bill.

SB 218--Disclosure of Information

Senator Kelly thinks this bill may open up legislative files for inspection. He suggested that the bill be amended to keep the existing disclosure law.

Senator Ray moved and asked unanimous consent to adopt a committee substitute which incorporated Sen. Kelly's suggestion and to move the CS with individual recommendations. There was no objection.

SB 48--Adoption of state retirement regulations

Ken Humphries, Director of the Division of Retirement and Benefits said that he thinks the bill is unnecessary since his division is promulgating regulations to address the problem, however, he doesn't object to the bill.

Senator Fischer propose a committee substitute.

Senator Ray moved and asked unanimous consent to adopt the committee substitute and to pass the bill from committee with individual recommendations.

SJR 22--Supporting establishment of a U.S. Academy of Peace

Senator Fischer suggested that the words "and conflict resolution" be stricken from the bill to conform to the language used in the congressional legislation which this resolution supports.

A general discussion followed concerning the sponsorship of the congressional legislation. Some committee members did not want to be associated with certain well known liberal senators and other committee members did not want to be associated with certain conservative senators. It was noted that Senator Murkowski is prime sponsor of the congressional legislation.

Senator Ray moved and asked unanimous consent that a committee substitute incorporating Sen. Fischer's suggestion be adopted and passed from the committee with individual recommendations. There was no objection.

HCR 28--Establishing George A. Parks Day

Senator Ray moved and asked unanimous consent that the bill pass from committee with a do pass recommendation. There was no objection.

The meeting was adjourned at 4:30 p.m.

have to the money, instrument, or property, or he waives it. If the objection is to the amount of money, the terms of the instrument, or the amount or kind of property, he shall specify the amount, terms, or kind which he requires, or is precluded from objecting later. This section shall not be construed to modify or change in any manner corresponding provisions of the Uniform Commercial Code (AS 45.05). (§ 3.20 ch 101 SLA 1962)

It is not necessary to tender cash. constitute a proper tender. *Ward v. Ward v. Miller*, 13 Alaska 752 (1952). *Miller*, 13 Alaska 752 (1952).

And a check, unobjected to, would

Sec. 09.25.100. Disposition of tax information. Information in the possession of the department of revenue which discloses the particulars of the business or affairs of a taxpayer or other person is not a matter of public record, except for purposes of investigation and law enforcement. The information shall be kept confidential except when its production is required in an official investigation or court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports and items, or prohibit the publication of tax lists showing the names of taxpayers who are delinquent and relevant information which may assist in the collection of delinquent taxes. (§ 3.21 ch 101 SLA 1962)

Sec. 09.25.110. Inspection and copies of public records. Unless specifically provided otherwise the books, records, papers, files, accounts, writings, and transactions of all agencies and departments are public records and are open to inspection by the public under reasonable rules during regular office hours. The public officer having the custody of public records shall give on request and payment of costs a certified copy of the public record. (§ 3.22 ch 101 SLA 1962)

Cross references.—See Civ. R. 44(b)(4). As to management and preservation of public records, see AS 40.21.

It is "specifically provided otherwise" by AS 12.45.050.—With respect to the right of inspection and copying records under this section, it is "specifically provided otherwise," so far as police records are concerned, by the terms of AS 12.45.050, thus meeting the express exception to this section. *Howard v. Jackson*, 7 Alas. L.J. No. 3, p. 431 (March 12, 1969).

Stated in *State v. Coon*, 2 Alas. L.J. No. 1, p. 3 (Jan. 1964).

ALR and C.J.S. references.—Finding of draft board as evidence of physical condition of one registered, 16 ALR 247.

Admissibility of report of public officer or employee on cause of or responsibility for injury to person or damage to property, 153 ALR 163.

32 C.J.S. Evidence §§ 649 to 675.

Sec. 09.25.120. Inspection and copying of public records. Every person has a right to inspect a public writing or record in the state, including public writings and records in recorders' offices except (1) records of vital statistics and adoption proceedings which shall be treated in the manner required by AS 18.50.010—

18.50.380; (2) records pertaining to juveniles; (3) medical and related public health records; (4) records required to be kept confidential by a federal law or regulation or by state law. Every public officer having the custody of records not included in the exceptions shall permit the inspection, and give on demand and on payment of the legal fees therefor a certified copy of the writing or record, and the copy shall in all cases be evidence of the original. Recordors shall permit memoranda, transcripts, and copies of the public writings and records in their offices to be made by photography or otherwise for the purpose of examining titles to real estate described in the public writings and records, making abstracts of title or guaranteeing or insuring the titles of the real estate, or building and maintaining title and abstract plants; and shall furnish proper and reasonable facilities to persons having lawful occasion for access to the public writings and records for those purposes, subject to reasonable rules and regulations, in conformity to the direction of the court, as are necessary for the protection of the writings and records and to prevent interference with the regular discharge of the duties of the recordors and their employees. (§ 3.23 ch 101 SLA 1962)

Cross references.—See Civ. R. 44-40.21.
 (b)(4). As to management and pres-

Sec. 09.25.130. Effect of private seals and scrolls. Private seals and scrolls as a substitute for seals are abolished. They are not required to an instrument, but when used their effect remains unchanged. (§ 3.10 ch 101 SLA 1962)

Sec. 09.25.150. Claiming of privilege by public official or reporter. Except as provided in §§ 150-170 of this chapter, no public official or reporter may be compelled to disclose the source of information procured or obtained by him while acting in the course of his duties as a public official or reporter. (§ 1 ch 115 SLA 1967)

Editor's note.—Section 2, ch. 115, adding to the privileges there listed, SLA 1967, provides: "This bill changes Rule 43(h) of the Supreme Court Rules [of Civil Procedure] by adding to the privileges there listed, the conditional privilege for public officers and reporters as to sources of information."

Sec. 09.25.160. Challenge of privilege. (a) When a public official or reporter claims the privilege in a cause being heard before the supreme court or a superior court of this state, a person who has the right to question him in that proceeding, or the court on its own motion, may challenge the claim of privilege. The court shall make or cause to be made whatever inquiry the court thinks necessary to a determination of the issue. The inquiry may be made instantly by way of questions put to the witness claiming the privilege and a decision then rendered, or the court may require the presence of other witnesses or documentary showing or may

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Editor's note.
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Editor's note
SLA 1967, p
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Court Rules

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

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Bill/Resolution No.: SB 218
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 Sponsor: V. Fischer
 Requestor: Senate State Affairs

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 Program Category Affected: _____
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|-------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC | | | | | | |
| TOTAL OPERATING | | 0 | 0 | 0 | 0 | 0 |

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| REVENUE | | | | | | |
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis- some staff time and xeroxing costs will be associated with each Request for Information. Requests will*

Prepared By: Anselm Staack *A. Staack* Phone: 465-2200

Division: Administration Date: 4/1/83

*need to be made in a timely manner.

Approved by Commissioner: Lisa Rudd *L. Rudd* Date: April 4, 1983

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3/8/83

Senator Vic Fischer

Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954



MEMORANDUM

TO: Kevin Bruce, Special Assistant
Office of the Governor

FROM: Senator Vic Fischer

DATE: April 25, 1983

SUBJ: SB 218, Disclosure of Information

Per our agreement, I've asked the Rules Committee to hold this bill.

I look forward to seeing instructions from the Governor to departments 'clarifying' (or whatever) his position on anti-gag-rule policy, per language in SB 218.

~~Doc. Lewis~~

supervisor for the state egg inspector

VE KEN BRUCE

Moss releases copy of DOT 'gag order'

SB 218
State Mimer Bureau

JUNEAU—A state lawmaker says a Department of Transportation memo ordering DOT employees not to speak to the press or legislators is proof of a department gag order.

Sen. Pappy Moss, who for several months has been complaining about lack of cooperation from DOT officials, circulated a memo Thursday.

The Feb. 16 memo, from Harold Moeser, chief of the department's Southeast Harbors and Marine Facilities, says: "Must I remind you and your staff again, not to talk to newspapers and legislators. Record the questions that are being asked and inform them they will have answers as soon as possible."

The memo was sent to Bob Beck, a Southeast harbor design chief after Beck responded to questions from a Petersburg reporter about that community's new boat harbor.

Written in hand on the memo, apparently by Beck, is: "My goof, but all staff please be advised that official gag order still exists and

that freedom of speech and other constitutional guarantees only pertain to your private lives."

Moeser said this morning the memo was only intended to make sure the department "speaks with a uniform voice."

He said DOT employees have been asked to defer questions of policy to the commissioner's office but are permitted to answer some questions about facts.

"Other than that distinction, there's never been a gag order," Moeser said.

In response to a controversy over an alleged gag order in Fairbanks in February, Casey said DOT employees have never been told not to respond to questions from the press or legislators.

Moss and other lawmakers have criticized the Sheffield administration for what they say is a lack of cooperation in responding to their questions.

Earlier in the year reporters also complained about phone calls not getting returned or information being withheld, but that appears to have improved.

Senate funds TV coverage

JUNEAU (AP)—The Alaska Senate supplemental appropriation for session may for an additional 30 days, but struck the supplement for television coverage, using a supplemental for television coverage.

020 DOCUMENT= 6 OF 6 PAGE = 1 OF 1
CHAPTER = 39.51
SECTION = 39.51.020
TITLE = 39

3 TITLE 39.
Public Officers and Employees.
CHAPTER 51.
Abuse of Power by Public Officers and Employees.
N Sec. 39.51.020.

LINE
OBSTRUCTION OF ACCESS TO PUBLIC INFORMATION.

(a) No public employee may be dismissed, demoted or suspended, laid off or otherwise made subject to any disciplinary action for communicating matters of public record or information under AS 09.25.110 and 09.25.120.

(b) As used in this section, "public employee" means any employee receiving compensation for services provided to the state (including the University of Alaska) or any political subdivision of the state.

(c) A violation of this section is a misdemeanor.
(Sec. 1 ch 151 SLA 1977)

END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER -COMMAND.

010 DOCUMENT= 5 OF 6 PAGE = 1 OF 2
CHAPTER = 39.50

Add - sec A & D TO
current ~~STAT~~

new section 025.



Official Business

Alaska State Legislature

Senate

Office of the President

Pouch V
State Capitol
Juneau, Alaska 99811

March 26, 1983

Commissioner Mark Lewis
Department of Community
and Regional Affairs
Pouch B (Mail Stop 2100)
Juneau, Alaska 99811

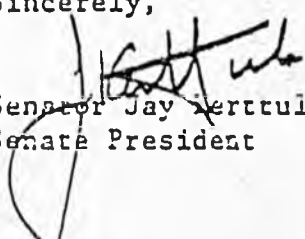
Dear Commissioner Lewis;

This letter is in response to a situation that occurred today between members of our respective staffs. My staff called your office to get information regarding the senior citizen housing project in Wasilla for the upcoming hearing on SCR13 in front of the Senate State Affairs Committee.

She was told that the information which had been shared with Rose Palmquist was an in-house report and was not available to the Senate President. Your office said that such a request should be made to Dick Pryor at Zenith 4585 in Anchorage. It is this type of action by state agencies which extends the length of the session. I should not have to call Anchorage to get information which is available here. It also seems ridiculous to me that this material is unavailable to me when I am making an effort to support a project which is in the Governor's budget.

I am requesting that the Senate State Affairs Committee hearing on SCR13 be postponed until such time as the Department is able to get these materials to me so that I have administrative backup. I would appreciate this material as soon as possible.

Sincerely,


Senator Jay Berntson
Senate President

JK/jla

cc: Governor Bill Sheffield
Senator Vic Fischer, Chairman of Senate State Affairs Committee
Senator Joe Josephson, Chairman Senate HESS Committee
Rose Palmquist

have to the money, instrument, or property, or he waives it. If the objection is to the amount of money, the terms of the instrument, or the amount or kind of property, he shall specify the amount, terms, or kind which he requires, or is precluded from objecting later. This section shall not be construed to modify or change in any manner corresponding provisions of the Uniform Commercial Code (AS 45.05). (§ 3.20 ch 101 SLA 1962)

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18.50.380; (2) records pertaining to juveniles; (3) medical and related public health records; (4) records required to be kept confidential by a federal law or regulation or by state law. Every public officer having the custody of records not included in the exceptions shall permit the inspection, and give on demand and on payment of the legal fees therefor a certified copy of the writing or record, and the copy shall in all cases be evidence of the original. Recorders shall permit memoranda, transcripts, and copies of the public writings and records in their offices to be made by photography or otherwise for the purpose of examining titles to real estate described in the public writings and records, making abstracts of title or guaranteeing or insuring the titles of the real estate, or building and maintaining title and abstract plants; and shall furnish proper and reasonable facilities to persons having lawful occasion for access to the public writings and records for those purposes, subject to reasonable rules and regulations, in conformity to the direction of the court, as are necessary for the protection of the writings and records and to prevent interference with the regular discharge of the duties of the recorders and their employees. (§ 3.23 ch 101 SLA 1962)

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Editor's note.—Section 2, ch. 115, SLA 1967, provides: "This bill adds to the privileges there listed, the conditional privilege for public officers and reporters as to sources of information." changes Rule 43(h) of the Supreme Court Rules [of Civil Procedure] by

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order a special deposition or take the deposition in the presence of the party or his attorney.

(b) The court may, in its discretion, order the official or reporter to produce the testimony or documents in his possession, custody, or control, as may be necessary for the trial, if it finds that

(1) the result of the trial to those

(2) be con-

Editor's note: SLA 1967 provides for Rule 43(h) of the Supreme Court Rules [of Civil Procedure]

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AS09.25.110 DOCUMENT= 1 OF 1 PAGE = 1 OF 1

CHAPTER = 09.25
SECTION = 09.25.110
TITLE = 09

HEADINGS TITLE 9.
Code of Civil Procedure.
CHAPTER 25.
Evidence.

CITATION Sec. 09.25.110.

CATCH LINE

INSPECTION AND COPIES OF PUBLIC RECORDS.

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HISTORY (Sec. 3.22 ch 101 SLA 1962)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

AS09.25.120 DOCUMENT= 1 OF 1 PAGE = 1 OF 2

CHAPTER = 09.25
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TEXT Every person has a right to inspect a public writing or record in the state, including public writings and records in recorders' offices except (1) records of vital statistics and adoption proceedings which shall be treated in the manner required by AS 18.50.010 - 18.50.380, (2) records pertaining to juveniles, (3) medical and related public health records; (4) records required to be kept confidential by a federal law or regulation or by state law. Every public officer having the custody of records not included in the exceptions shall permit the inspection, and give on demand and on payment of the legal fees therefor a certified copy of the writing or record, and the copy shall in all cases be evidence of the original. Recorders shall permit memoranda, transcripts, and copies of the public writings and records in their offices to be made by photography or otherwise for the purpose of examining titles to real estate described in the public writings and records, making abstracts of title or guaranteeing or insuring the titles of the real estate, or building and maintaining title and abstract plants, and shall

AS09.25.120 DOCUMENT= 1 OF 1 PAGE = 2 OF 2

furnish proper and reasonable facilities to persons having lawful occasion for access to the public writings and records for those purposes, subject to reasonable rules and regulations, in conformity to the direction of the court, as are necessary for the protection of the writings and records and to prevent interference with the regular discharge of the duties of the recorders and their employees.

HISTORY (Sec. 3.23 ch 101 SLA 1962)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

Introduced: 3/30/83
Referred: State Affairs

BY V. FISCHER, KERTTULA, SACKETT,
JOSEPHSON, FERGUSON, ELIASON,
RODEY, MOSS, BENNETT, FAHRENKAMP,
RAY AND STURGULEWSKI

1 IN THE SENATE

2 SENATE BILL NO. 218

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the disclosure of information."
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. FINDING. The legislature finds that free access to infor-
9 mation at all levels of state government is critical to the exercise of
10 legislative responsibilities under Article II of the Alaska constitution.

11 * Sec. 2. AS 39.51.020 is repealed and reenacted to read:

12 Sec. 39.51.020. OBSTRUCTION OF ACCESS TO PUBLIC INFORMATION.

13 (a) A public employee shall cooperate with the request of a legis-
14 lator for information or a public record the disclosure of which is
15 not prohibited by statute.

16 (b) No public employee may be dismissed, demoted or suspended,
17 laid off or otherwise made s.bject to any disciplinary action for
18 communicating matters of public record or information the disclosure
19 of which is not prohibited by statute.

20 (c) As used in this section, "public employee" means any em-
21 ployee receiving compensation for services provided to the state
22 (including the University of Alaska) or any political subdivision of
23 the state.

24 (d) A violation of this section is a class A misdemeanor.

.020 DOCUMENT= 6 OF 6 PAGE = 1 OF 1
CHAPTER = 39.51
SECTION = 39.51.020
TITLE = 39

3 TITLE 39.
Public Officers and Employees.
CHAPTER 51.
Abuse of Power by Public Officers and Employees.
4 Sec. 39.51.020.

LINE

OBSTRUCTION OF ACCESS TO PUBLIC INFORMATION.

(a) No public employee may be dismissed, demoted or suspended, laid off or otherwise made subject to any disciplinary action for communicating matters of public record or information under AS 09.25.110 and 09.25.120.

(b) As used in this section, "public employee" means any employee receiving compensation for services provided to the state (including the University of Alaska) or any political subdivision of the state.

(c) A violation of this section is a misdemeanor.

(Sec. 1 ch 151 SLA 1977)

END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

.010 DOCUMENT= 5 OF 6 PAGE = 1 OF 2
CHAPTER = 39.50



Alaska State Legislature

Senate

Office of the President

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

March 26, 1983

Commissioner Mark Lewis
Department of Community
and Regional Affairs
Pouch B (Mail Stop 2100)
Juneau, Alaska 99811

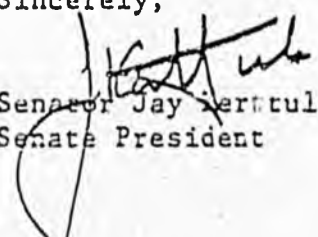
Dear Commissioner Lewis;

This letter is in response to a situation that occurred today between members of our respective staffs. My staff called your office to gather information regarding the senior citizen housing project in Wasilla for the upcoming hearing on SCR13 in front of the Senate State Affairs Committee.

She was told that the information which had been shared with Rose Palmquist was an in-house report and was not available to the Senate President. Your office said that such a request should be made to Dick Pryor at Zenith 4585 in Anchorage. It is this type of action by state agencies which extends the length of the session. I should not have to call Anchorage to get information which is available here. It also seems ridiculous to me that this material is unavailable to me when I am making an effort to support a project which is in the Governor's budget.

I am requesting that the Senate State Affairs Committee hearing on SCR13 be postponed until such time as the Department is able to get these materials to me so that I have administrative backup. I would appreciate this material as soon as possible.

Sincerely,


Senator Jay Ventula
Senate President

JK/jla

cc: Governor Bill Sheffield
Senator Vic Fischer, Chairman of Senate State Affairs Committee
Senator Joe Josephson, Chairman Senate HESS Committee
Rose Palmquist

have to the money, instrument, or property, or he waives it. If the objection is to the amount of money, the terms of the instrument, or the amount or kind of property, he shall specify the amount, terms, or kind which he requires, or is precluded from objecting later. This section shall not be construed to modify or change in any manner corresponding provisions of the Uniform Commercial Code (AS 45.05). (§ 3.20 ch 101 SLA 1962)

It is not necessary to tender cash. constitute a proper tender. *Ward v. Ward v. Miller, 13 Alaska 752 (1952).* *Miller, 13 Alaska 752 (1952).*
And a check, unobjected to, would

Sec. 09.25.100. Disposition of tax information. Information in the possession of the department of revenue which discloses the particulars of the business or affairs of a taxpayer or other person is not a matter of public record, except for purposes of investigation and law enforcement. The information shall be kept confidential except when its production is required in an official investigation or court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports and items, or prohibit the publication of tax lists showing the names of taxpayers who are delinquent and relevant information which may assist in the collection of delinquent taxes. (§ 3.21 ch 101 SLA 1962)

Sec. 09.25.110. Inspection and copies of public records. Unless specifically provided otherwise the books, records, papers, files, accounts, writings, and transactions of all agencies and departments are public records and are open to inspection by the public under reasonable rules during regular office hours. The public officer having the custody of public records shall give on request and payment of costs a certified copy of the public record. (§ 3.22 ch 101 SLA 1962)

Cross references.—See Civ. R. 44-(b)(4). As to management and preservation of public records, see AS 10.21.

It is "specifically provided otherwise" by AS 12.45.050.—With respect to the right of inspection and copying records under this section, it is "specifically provided otherwise," so far as police records are concerned, by the terms of AS 12.45.050, thus meeting the express exception to this section. *Howard v. Jackson, 7 Alas. L.J. No. 3, p. 431 (March 12, 1969).*

Stated in *State v. Coon, 2 Alas. L.J. No. 1, p. 3 (Jan. 1964).*

ALR and C.J.S. references.—Finding of draft board as evidence of physical condition of one registered, 16 ALR 247.

Admissibility of report of public officer or employee on cause of or responsibility for injury to person or damage to property, 153 ALR 163.

32 C.J.S. Evidence §§ 649 to 675.

Sec. 09.25.120. Inspection and copying of public records. Every person has a right to inspect a public writing or record in the state, including public writings and records in recorders' offices except (1) records of vital statistics and adoption proceedings which shall be treated in the manner required by AS 18.50.010—

18.50.380; (2) records pertaining to juveniles; (3) medical and related public health records; (4) records required to be kept confidential by a federal law or regulation or by state law. Every public officer having the custody of records not included in the exceptions shall permit the inspection, and give on demand and on payment of the legal fees therefor a certified copy of the writing or record, and the copy shall in all cases be evidence of the original. Recorders shall permit memoranda, transcripts, and copies of the public writings and records in their offices to be made by photography or otherwise for the purpose of examining titles to real estate described in the public writings and records, making abstracts of title or guaranteeing or insuring the titles of the real estate, or building and maintaining title and abstract plants; and shall furnish proper and reasonable facilities to persons having lawful occasion for access to the public writings and records for those purposes, subject to reasonable rules and regulations, in conformity to the direction of the court, as are necessary for the protection of the writings and records and to prevent interference with the regular discharge of the duties of the recorders and their employees. (§ 3.23 ch 101 SLA 1962)

Cross references.—See Civ. R. 44- (b)(4). As to management and preservation of public records, see AS 40.21.

Sec. 09.25.130. Effect of private seals and scrolls. Private seals and scrolls as a substitute for seals are abolished. They are not required to an instrument, but when used their effect remains unchanged. (§ 3.10 ch 101 SLA 1962)

Sec. 09.25.150. Claiming of privilege by public official or reporter. Except as provided in §§ 150—220 of this chapter, no public official or reporter may be compelled to disclose the source of information procured or obtained by him while acting in the course of his duties as a public official or reporter. (§ 1 ch 115 SLA 1967)

Editor's note.—Section 2, ch. 115, SLA 1967, provides: "This bill changes Rule 43(h) of the Supreme Court Rules [of Civil Procedure] by adding to the privileges there listed, the conditional privilege for public officers and reporters as to sources of information."

Sec. 09.25.160. Challenge of privilege. (a) When a public official or reporter claims the privilege in a cause being heard before the supreme court or a superior court of this state, a person who has the right to question him in that proceeding, or the court on its own motion, may challenge the claim of privilege. The court shall make or cause to be made whatever inquiry the court thinks necessary to a determination of the issue. The inquiry may be made instantaneously by way of questions put to the witness claiming the privilege and a decision then rendered, or the court may require the presence of other witnesses or documentary showing or may

order a special deposition.

(b) The court may, in its discretion, require the official or the reporter to produce the testimony or documents in question, if the necessity as may be shown by the trial, if it finds that

(1) result of the trial to those

(2) be considered

Editor's note.—SLA 1967 provides: "This bill changes Rule 43(h) of the Supreme Court Rules [of Civil Procedure] by

Sec. 09.25.170. Challenge of privilege. (a) When a public official or reporter claims the privilege in a cause being heard before the supreme court or a superior court of this state, a person who has the right to question him in that proceeding, or the court on its own motion, may challenge the claim of privilege. The court shall make or cause to be made whatever inquiry the court thinks necessary to a determination of the issue. The inquiry may be made instantaneously by way of questions put to the witness claiming the privilege and a decision then rendered, or the court may require the presence of other witnesses or documentary showing or may

(1) before the trial;

(2) before the trial;

(3) in the course of the trial, agency

(4) before the trial, state, borough, or city body; or

(5) before the trial;

(b) If, in the course of the trial, a public official, or reporter, or a court for any reason, refuses to disclose the source of information, When the court finds that the application for disclosure is

(c) Appropriate steps shall be taken to protect the source of information, and the court shall determine whether the public official or reporter and the court shall make or cause to be made whatever inquiry the court thinks necessary to a determination of the issue. The inquiry may be made instantaneously by way of questions put to the witness claiming the privilege and a decision then rendered, or the court may require the presence of other witnesses or documentary showing or may

Editor's note.—SLA 1967, changes Rule 43(h) of the Supreme Court Rules [of Civil Procedure] by



Senator Vic Fischer

Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954

March 24, 1984

MEMORANDUM

TO: BILL BERRIER
FROM: SENATOR VIC FISCHER
RE: DRAFTING REQUEST

A handwritten signature in cursive script, appearing to read "Vic Fischer", written over a dotted line.

I'd like to request a bill be drafted. The result that I want to achieve is to make it illegal for a state employee to either refuse to provide information to a legislator or to set policy for those state employees under his or her supervision which would in any way restrict them from providing information to a legislator. Of course information protected by law is exempt.

This section should state that responding to legislative information requests is a job requirement and a duty of state employees and not something that could make an employee liable for retribution of any kind.

It seems to me that a new section (b) in AS 39.51.020 would do the trick, and the rest of this statute fits right in.

Lewis Schnaper on my staff should be contacted if you've any questions. Thanks.

11.56.860 DOCUMENT# 3 OF 10 PAGE = 1 OF 1
CHAPTER = 11.56
SECTION = 11.56.860
TITLE = 11

HEADINGS TITLE 11.
Criminal Law.
CHAPTER 56.
Offenses Against Public Administration.
ARTICLE 6.
Abuse of Public Office.

CITATION Sec. 11.56.860.

ATCH LINE

MISUSE OF CONFIDENTIAL INFORMATION.

EXT

(a) A person who is or has been a public servant commits the crime of misuse of confidential information if he

(1) learns confidential information through his employment; and

(2) while in office or after leaving office, uses the confidential information for personal gain or in a manner not connected with the performance of his official duties other than by giving sworn testimony or evidence in a legal proceeding in conformity with a court order.

(b) As used in this section, "confidential information" means information which has been classified confidential by law.

(c) Misuse of confidential information is a class A misdemeanor.

HISTORY (Sec. 6 ch 166 SLA 1978)

END OF DOCUMENT

47.30.590 DOCUMENT# 10 OF 10 PAGE = 1 OF 1
CHAPTER = 47.30
SECTION = 47.30.590

READINGS TITLE 47.
Welfare, Social Services and Institutions.
CHAPTER 30.
Mentally Ill and Insane Persons.
ARTICLE 5.
Community Mental Health Services.

ITATION Sec. 47.30.590.
ATCH LINE

PATIENT RIGHTS AND THE CONFIDENTIAL NATURE OF RECORDS AND
INFORMATION.

EXT The department shall adopt regulations to assure patient rights
and to safeguard the confidential nature of records and
information about the recipients of services provided under AS
47.30.520 - 47.30.620. The regulations shall require that local
community entities develop and include in any plan submitted for
approval adequate provisions for safeguarding confidential
information. The department's regulations shall provide for
disclosure of confidential information to mental health
professionals providing services to a recipient and to other
appropriate service agencies when it is in the defined best
interests of the patient.

ISTORY (Sec. 1 ch 121 SLA 1975)

0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.



Official Business

Alaska State Legislature

Senate

Office of the President

Pouch V
State Capitol
Juneau, Alaska 99811

March 26, 1983

Commissioner Mark Lewis
Department of Community
and Regional Affairs
Pouch B (Mail Stop 2100)
Juneau, Alaska 99811

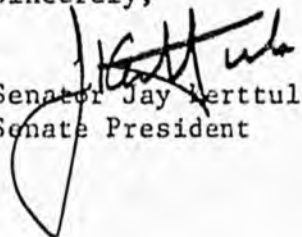
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She was told that the information which had been shared with Rose Palmquist was an in-house report and was not available to the Senate President. Your office said that such a request should be made to Dick Pryor at Zenith 4585 in Anchorage. It is this type of action by state agencies which extends the length of the session. I should not have to call Anchorage to get information which is available here. It also seems ridiculous to me that this material is unavailable to me when I am making an effort to support a project which is in the Governor's budget.

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Sincerely,


Senator Jay Verttula
Senate President

JK/jla

cc: Governor Bill Sheffield
Senator Vic Fischer, Chairman of Senate State Affairs Committee
Senator Joe Josephson, Chairman Senate HESS Committee
Rose Palmquist

SECTION = 39.50.010
TITLE = 39

HEADINGS TITLE 39.
Public Officers and Employees.
CHAPTER 50.
Conflict of Interest.

CITATION Sec. 39.50.010.

CATCH LINE

FINDINGS AND PURPOSE.

TEXT (a) It is declared by the people of the State of Alaska that the purposes of this chapter are:

(1) to discourage public officials from acting upon a private or business interest in the performance of a public duty;

(2) to assure that public officials in their official acts are free of the influence of undisclosed private or business interests;

(3) to develop public confidence in persons seeking or holding public office, enhance the dignity of the offices and make them attractive to citizens who are motivated to public service; and

(4) to develop accountability in government by permitting public access to information necessary to judge the credentials and performance of those who seek and hold public office.

(b) The people of the State of Alaska declare that:

(1) public office is a public trust which should be

AS39.50.010 DOCUMENT= 5 OF 6 PAGE = 2 OF 2

free from the danger of conflict of interest;

(2) the public has a right to know of the financial and business interests of persons who seek or hold public office;

(3) a compelling state interest requires that candidates for office and office holders disclose their personal and business financial interests;

(4) reasonable disclosure requirements do not violate an individual's right to privacy when the individual seeks or holds public office and a compelling state interest in the disclosure exists; and

(5) reasonable disclosure requirements do not have the effect of chilling the exercise of the right of a qualified person to seek or hold public office.

HISTORY (1974 Initiative Proposal No. 2, sec. 1)

END OF DOCUMENT