

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

2/22/85

Date: 3-6-85

Mr. Speaker:

The Committee on FINANCE has had HB 118

"An Act relating to the small claims jurisdictional limitation and the duties of magistrates; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 118 (Jud) same title
 new title
 and recommends DO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

CHAIRMAN

COMMITTEE REPORT

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DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

FISCAL DETAIL

Bill/Resolution No.: CSHB 118 (Jud) Agency Affected: Alaska Court System
 Title: An Act relating to small Claims and Magistrate Jurisdiction Program Category Affected: Administration of Justice
 Sponsor: Court BRU, Program or Subprogram(s) Affected: Trial Courts
 Requestor: House Finance
 Date of Request: 3/7/85

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		94.8	100.5	106.5	112.9	119.7
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES		2.0	2.1	2.2	2.3	2.4
500 EQUIPMENT		9.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		105.8	102.6	108.7	115.2	122.1

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE		118.1	124.0	130.2	136.7	143.5
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FUNDING: (Thousands of Dollars)

GENERAL FUND		105.8	102.6	108.7	115.2	122.1
FEDERAL FUNDS						
OTHER						
TOTAL		105.8	102.6	108.7	115.2	122.1

POSITIONS:

FULL-TIME		3	3	3	3	3
PART-TIME		1	1	1	1	1
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See Attached analysis sheet - page 2.

Prepared By: Al Adams - Chair

Phone: 465-3706

Division: House Finance

Date: 3/7/85

Approved by Commissioner: _____

Date: _____

Agency: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

Alaska Court System
Fiscal Note Analysis

CS HB 118 (Jud)
by House Finance Committee

This bill only takes effect if the court increases small claims filing fees from the current \$5.00 to \$15.00. Therefore the fiscal impact shown here will only occur if the court increases the fee.

Revenues are computed as follows:

FY 84 10,735 small claims were filed.
The fee for each filing would increase \$10.00

The Court estimates the number of filings will have increased 10% in FY 85.

10,735	X	\$10.00	=	\$107,350
1,073.50	X	\$10.00	=	10,735
(10,735 X .10)				<hr/>
				\$118,085.

The FY 86 figure of \$118,085 has increased 5% each succeeding year.

ALASKA COURT SYSTEM
FISCAL NOTE ANALYSIS

HB 118 - SMALL CLAIMS & MAGISTRATE JURISDICTION

PERSONNEL:	SALARY	BENEFITS	TOTAL COST
1½ COURT CLERK I (Anchorage - 8B)	\$28,926	\$10,418	\$39,344
1 COURT CLERK I (Fairbanks - 8B)	21,744	7,496	29,240
1 COURT CLERK I (Juneau - 8B)	19,284	6,945	26,229

	Total Personnel Costs		94,813
SUPPLIES			2,000
EQUIPMENT (one-time items)			8,996

TOTAL FY 86 COST			\$105,809
			=====

Subsequent fiscal years adjusted to reflect 6% inflation.

referred

Revision Date: _____

REQUEST

Bill/Resolution No.: C5HB 118 (Jud)
 Title: An Act Relating to Small
 Claims and Magistrate Jurisdiction
 Sponsor: Judiciary Committee
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: _____
Administration of Justice
 BRU, Program or Subprogram(s) Affected: _____
Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
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----------------	--	--	--	--	--	--

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POSITIONS:

FULL-TIME		3	3	3	3	3
PART-TIME		1	1	1	1	1
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The original fiscal note submitted by the Court System for HB 118 is still correct; however, the costs incurred will be more than offset by the increase in filing fees required under Sec. 4 of the House Judiciary Committee Substitute for HB 118.

ANALYSIS:

Prepared By: Hayden Kaden, Committee Counsel Phone: 465-4990
 Division: House Judiciary Committee Date: 2-20-85
 Approved by *[Signature]* ~~XXXXXX~~ Chairman Date: 2-20-85
 Agency: _____

Distribution (by Agency preparing fiscal note):

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

12/1/83

Offered: 2/22/85
Referred: Finance

Original sponsor: Judiciary/Chief Justice
Alaska Supreme Court

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 118 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to small claims, and the duties of
7 magistrates; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 22.15.040 is amended to read:

10 Sec. 22.15.040. SMALL CLAIMS. When a claim for relief does not
11 exceed \$5,000 [\$2,000] exclusive of costs, interest and attorney fees,
12 and request is so made, the district judge or magistrate shall hear
13 the action as a small claim unless important or unusual points of law
14 are involved. The supreme court shall prescribe the procedural rules
15 and standard forms to assure simplicity and the expeditious handling
16 of small claims.

17 * Sec. 2. AS 22.15.040 is amended by adding a new subsection to read:

18 (b) All potential small claim litigants shall be informed if
19 mediation, conciliation, and arbitration services are available as an
20 alternative to litigation.

21 * Sec. 3. AS 22.15.120 is amended to read:

22 Sec. 22.15.120. LIMITATIONS ON PROCEEDINGS WHICH MAGISTRATE MAY
23 HEAR. A magistrate shall preside only in cases and proceedings under
24 AS 22.15.040, 22.15.100, and 22.15.110, and as follows,

25 (1) for the recovery of money or damages only when the
26 amount claimed, exclusive of costs, interest, and attorney fees, does
27 not exceed \$5,000 [\$1,000];

28 (2) for the recovery of specific personal property when the
29 value of the property claimed and the damages for the detention do not

1 exceed \$5,000 [\$1,000];

2 (3) for the recovery of a penalty or forfeiture, whether
3 given by statute or arising out of contract, not exceeding \$5,000
4 [\$1,000];

5 (4) to give judgment without action upon the confession of
6 the defendant for any of the cases specified in this section, except
7 for a penalty or forfeiture imposed by statute;

8 (5) to give judgment of conviction upon a plea of guilty by
9 the defendant in a criminal proceeding within the jurisdiction of the
10 district court;

11 (6) to hear, try, and enter judgments in all cases involv-
12 ing misdemeanors, if the defendant consents in writing that the magis-
13 trate may try the case;

14 (7) to hear, try and enter judgments in all cases involving
15 infractions under AS 28 and violations of ordinances of political
16 subdivisions [;

17 (8) REPEALED].

18 * Sec. 4. This Act takes effect on the effective date of an amendment
19 by the Supreme Court to Rule 9(c)(2) of the Rules Governing the Adminis-
20 tration of All Courts raising the filing fee for small claims actions from
21 \$5 to at least \$15.

Alaska State Legislature

House of Representatives

Al Adams

Chairman

Committee on Finance

March 5, 1985

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

Official Business

MEMORANDUM

TO: House Finance Committee

FROM: Louann Cutler *LWC*
Special Assistant

SUBJ: HB 118, raising the dollar limit of small claims
proceedings in district court and before magistrates

Since the court system administrator, Art Snowden, is unable to attend the hearing on this bill, here is some information pertinent to your consideration of HB 118.

CS HB 118 (JUD)

The Judiciary C.S. makes three changes to the original bill:

1. The title of the bill is changed by removing the phrase "jurisdictional limitation".
2. Section 2 requires the court to alert small claims litigants to alternative methods of resolving the dispute such as mediation, conciliation and arbitration services that may be available in the community.
3. The effective date has been changed. The bill would now take effect only if the court changes its administrative rules to increase the small claims' filing fee from \$5 to \$15. Effectively, litigants would pay for the increased costs to the court system caused by the bill.

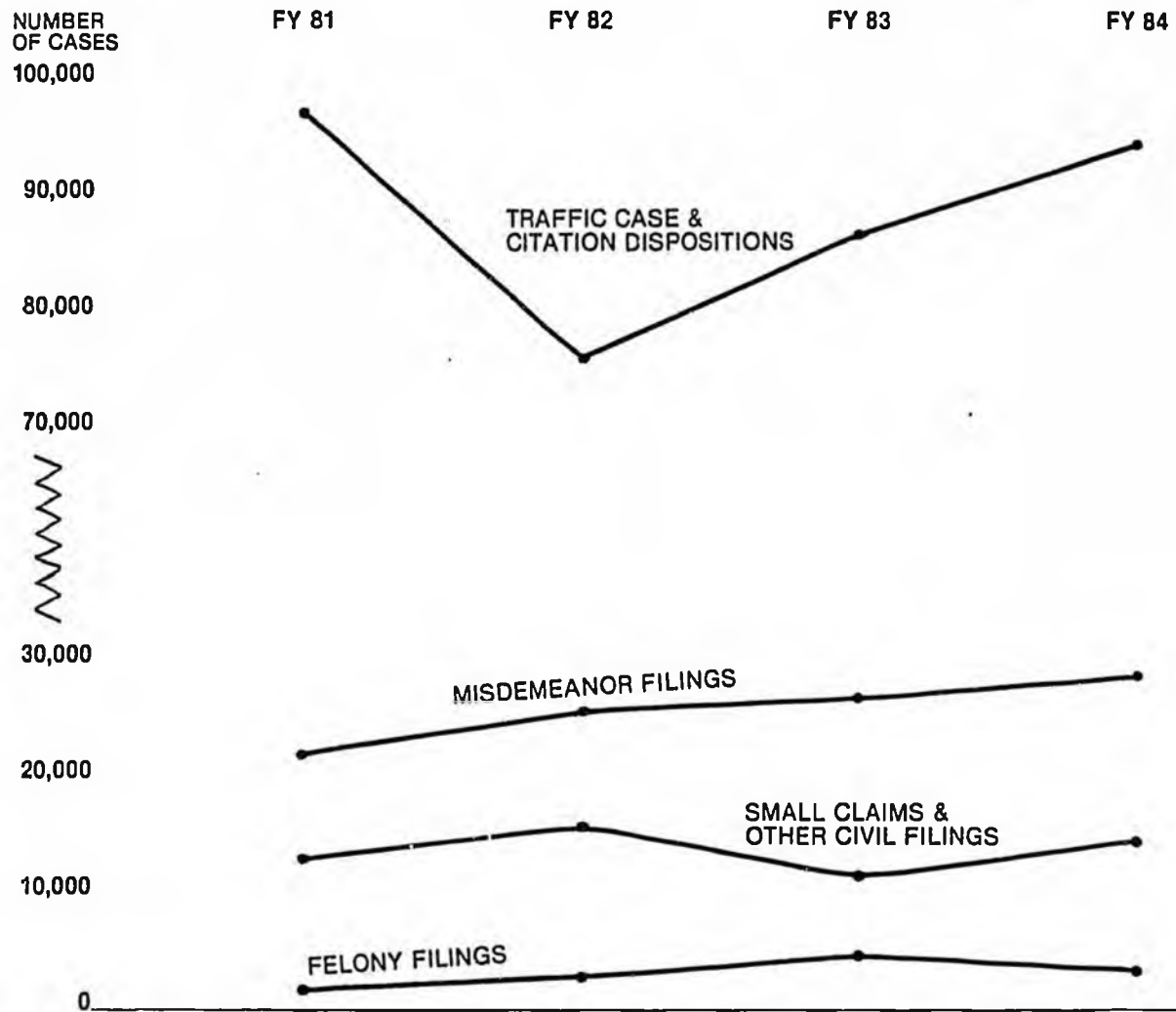
Court System Position

Mr. Snowden indicates that the court is not opposed to the changes made to the bill in CS HB 118 (JUD).

Fiscal Note

You may recall that similar legislation has been before the legislature in past sessions. The court system has not always requested additional positions in the past to implement the bill. However, the recent increase in the Alaskan population has contributed to an increase in small claims proceedings. (The attached chart shows the increase from FY 81 to FY 84 and Mr. Snowden indicated that the FY 85 increase should be an additional 10%.) Hence, the request for additional court clerks to handle the increased case load that this bill would bring about since there would be even more filings if the dollar limits are raised. It should be noted that the tripling of small claims filing fees is expected to cover the increased cost to the court.

TABLE XI
DISTRICT COURTS
 (High and Low Volume)
SUMMARY OF FY 81 - FY 84 FILINGS BY CASE TYPE



	FY 81	FY 82	FY 83	FY 84
Traffic Dispos.	: 97,705	78,080	89,281	94,882
Misdemeanor Filings	: 21,938	25,111	26,728	28,587
Small Claims & Other Civil Filings	: 14,941	16,147	14,805	16,028
Felony Filings	: <u>2,021</u>	<u>2,038</u>	<u>2,362</u>	<u>2,109</u>
Total Filings	: 136,605	121,376	133,176	141,606

Changes in filings since FY 81 for specific types of cases are noted in Table XI. Misdemeanors are up 30% and civil cases 7%. Traffic citations and felony filings in district court have fluctuated annually due to pro-

secutorial discretion in either filing a felony case in district court for preliminary hearing or seeking an indictment where the initial filing is in superior court.

OF COUNSEL
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F. O. EASTAUGH
J. B. BRADLEY
WILLIAM G. RUDDY
JAMES F. CLARK
PAUL M. HOFFMAN
J. P. TANGEN
HAROLD E. SNOW, JR.
D. ELIZABETH CUADRA
PAMELA L. FINLEY
STEVEN W. SILVER
JAMES M. SHINE
STANLEY B. MALOS

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March 6, 1985

Representative Al Adams, Chairman
House Finance Committee
Alaska Legislature
Pouch V
Juneau, Alaska 99811

Senator Jan Faiks, Co-Chairman
Senator John Sackett, Co-Chairman
Senate Finance Committee
Alaska Legislature
Pouch V
Juneau, Alaska 99811

Re: HB 118 and SB 77: Small Claims Jurisdictional Limitation

Dear Representative Adams and Senators Faiks and Sackett:

Speaking as an individual attorney who serves as municipal attorney for several very small southeastern Alaska municipalities, let me express my support for raising the jurisdictional limitation for small claims court to \$5,000, as provided in the subject bills.

The purpose of small claims court is to provide an economical process that any layman can use, thus avoiding the cost of attorney fees. Most municipal clerks are able to learn to use the small claims court procedures as a means of collecting past due sales taxes and other debts owed to the city. Sometimes the accumulated amounts owed by one defendant exceed the present jurisdictional limit of \$2,000. The small claims court process allows the small municipalities to collect debts owed to them by an economically efficient means, and this means should be made available to them for accumulated debts from a single individual up to at least \$5,000.

Small municipalities do not have an attorney on staff, and even if they did, they have many other legal problems which actually require an attorney's help. It would be economically beneficial to small municipalities if the small claims jurisdictional amount is

Representative Al Adams
Senator Jan Faiks
Senator John Sackett
March 6, 1985
Page Two

raised to at least \$5,000. Even now, and especially in the future with declining State revenues, small municipalities cannot afford to spend money on attorney fees for proceedings that could be carried on by local members of the municipal staff in small claims court. Even though Alaska Civil Rule 82 provides for award of attorney fees to the prevailing party, that award seldom exceeds 60% of the actual attorney fee cost incurred by the prevailing party.

Thank you for considering my views.

Sincerely,



D. Elizabeth Cuadra

DEC:sd

cc: House Finance Committee Members (Ringstad, Duncan, Larson, Szymanski, Cotten, Frank, Binkley, Pourchot, Rieger, and Uehling)
Senate Finance Committee Members (Kerttula, Eliason, P. Fischer, Halford, and Ferguson)
City of Craig
City of Thorne Bay
City of Hydaburg
City of Skagway
Haines Borough

AIECA

ALASKA
INDEPENDENT
ELECTRICAL
CONTRACTORS
ASSOCIATION

The Honorable Al Adams
Chairman, House Finance Committee
Pouch V
Juneau, Alaska 99811

Dear Chairman Adams,

21 February 1985

We write in support of HB 118, relating to increases in the Small Claims jurisdiction.

We are aware of the court backlog and in-house and exterior studies which have been performed. We are aware that the proposed changes in this bill will go a long way toward streamlining the flow of cases through the court system by relegating smaller cases to the lower courts, and opening the dockets of the higher courts where cases move more slowly.

That's not what we're writing to you about, however. We are writing to tell you about how this bill would affect small businessmen, especially contractors...and of course, our organization. We represent the largest segment of the electrical contracting industry, the Independents.

Most of us routinely develop accounts receivable ranging from a \$40.00 service call to over a million dollars. The larger amounts are handled formally with contracts, acknowledgements of right to lien and the like, and are taken to higher courts by attorney when required. The smaller ones are routinely taken to small claims court.

That leaves those old bills ranging from about \$3,200 to \$6,000. Because most businessmen are incorporated, they are prohibited by State law from representing themselves in District or Superior court without an attorney. The only place they may do that is in small claims.

Most of us have filed suits for amounts up through \$3,200 or so, knowing that the statutory limit of \$2,000 will circumscribe our recovery. The options are disagreeable, and we settle for the \$2,000 plus service and interest, and write off the other \$1,200. If the debt is much larger, we are extremely reluctant to write off amounts approaching half the bill or more.

If the bill is say, \$7,000.00 we'd hire an attorney, recognizing that we may pay the first \$2,000 in fees, and recognizing that Court Rule 82 will never allow us to recover the ACTUAL COURT COSTS. It is, however, better than writing off half of it. *That leaves all those debts in the middle where we cannot afford to hire an attorney and we cannot afford to take them to small claims. In fact, a debtor who owes an unsecured debt of say \$4,000, is relatively safe!*

Charter Members: ALL PHASE ELECTRIC, B & E ELECTRIC, DINGBAT ELECTRIC, FUCHS ELECTRIC, HUSKY ELECTRIC, INDEPENDENT ELECTRIC, RAINBOW ELECTRIC, NAVES ELECTRIC, RICHCREEK ELECTRIC, TANNER & SONS ELECTRIC, YELLOW ELECTRIC, LTD.



pp 2 of 2
AIECA to Finance
21 February 1985

The proposed amendment would allow small businessmen and women to entertain collections up through approximately \$7,000 without the fear of losing most of the award to fees, and without the cumbersome, expensive and time-consuming effort in District or Superior Court. We urge passage as written and would be pleased to assist if appropriate.

A handwritten signature in cursive script that reads "Don Tanner". The signature is written in dark ink and is positioned above the typed name.

DON TANNER
President

Introduced: 1/25/85
Referred: Judiciary and
Finance

BY THE JUDICIARY COMMITTEE
(For the Chief Justice of
the Alaska Supreme Court)

1 IN THE HOUSE

2 HOUSE BILL NO. 118

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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6 the defendant in a criminal proceeding within the jurisdiction of the
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8 (6) to hear, try, and enter judgments in all cases
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10 magistrate may try the case;

11 (7) to hear, try and enter judgments in all cases involving
12 infractions under AS 28 and violations of ordinances of political
13 subdivisions. [;

14 (8) REPEALED]

15 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
16 10.070(c).