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STATE OF ALASKA
THE LEGISLATURE

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POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary 5-7-86

1:30pm

COMMITTEE REPORT

(7)

Date referred: 4/22/86

FURTHER REFERRALS:

DATE: _____

The JUDICIARY Committee has considered SB 412

"An Act relating to claims against the state."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with _____ same title
- replace with _____ new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Chairman

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB 412
 Title : Acr relating to claims
against the state
 Sponsor : Senator Faiks
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : All
 BRU : _____
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING : (Thousands of Dollars)

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

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

Prepared by : _____
 Division : Senator Jan Faiks, Co-chairman
Senate Finance Committee
 Approved by Commissioner : _____
 Agency : _____

Phone : 465-4523
 Date : 3/20/86

Date : _____

Distribution (by Agency preparing fiscal note):

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

Alaska State Legislature



CO-CHAIRMAN
FINANCE COMMITTEE

(907-465-3700)

JAN FAIKS
PO BOX 4
CAPITOL BUILDING
JUNEAU ALASKA 99801

Senate

February 25 1986

MEMORANDUM

TO: Senator Mitch Abood, Chairman
Senate State Affairs Committee

FROM: Senator Jan Faiks *JF*

SUBJECT: Background Information on Senate Bill 412, an Act
relating to claims against the state

Alaska Statutes 44.77.010 - 070 establish procedures for a person who wishes to file a claim for labor, services, materials, or supplies furnished to the State.

The claim must first be submitted to an administrative or executive officer. If the officer denies his claim, then the claimant may obtain review of the denial by the Department of Administration.

Only if both the officer and the Department deny the claim, or the latter takes no action on the request for one year, may the person seek judicial review of the State's decision. In that event, the current law says that a person can file a legal action in Superior Court. There, his claim would be governed by the procedures for introducing evidence and all of the other formalities of a civil lawsuit.

Section 1 and 2 of this bill will change this system by entitling the person to a judicial review according to simpler procedures which are now contained in our Administrative Procedure Act. Rather than beginning anew with the issue, the court would be able to review the evidence already presented on the claim and then judge the State's decisions accordingly.

OUT OF SESSION

1024 WEST SIXTH AVENUE, SUITE 302 ANCHORAGE, ALASKA 99501 907-274-6611

These amendments were suggested by the Alaska Supreme Court in order to further judicial economy without significantly impairing the rights of claimants. These persons will still have full court review of their denied claims. However, they will avoid the expense and delay of having to present these claims in the context of a formal, civil lawsuit.

Section 3 deals with the consequences of a November, 1985, court decision. In the case of State v. Dupere, the Supreme Court decided that the claims procedure applied not only to the executive branch, but also to the legislative and judicial branches.

Currently, AS 44. 7.070 exempts from this system any department in the executive branch which has adopted its own mandatory claim and appeal procedure.

Section 3 of the bill will extend this exemption to departments of the legislative and judicial branches once they adopt a claims and appeals procedure. By allowing the judicial and legislative branches to adopt their own system and to avoid a review of their matters by a department of the executive branch, the bill will further the principle of separation of powers.

SB 412 - Analysis

Sections 1 and 2

- Under current law, a person who has a contract claim against the state must file it with the Department of Administration.
- If a person loses after going through the DOA review, the person must file a brand new law suit in court.
- Under this bill, instead of filing a totally new law suit, the person would ask for court review of the DOA decision. The court would not hold a new hearing but would make its decision based on the record compiled by the DOA.
- The court could overturn DOA if its hearing was unfair or DOA abused its discretion.
- Court resources are used more efficiently by handling these cases as administrative appeals rather than new law suits.

Section 3

- Under current law, an executive agency can set up a claim procedure separate from DOA.
- But under a recent supreme court case, claims against the legislative and judicial branches must be submitted through DOA.
- This decision was based on the way the statute is written now.
- Section 3 would change the statute to give the legislative and judicial branches the same power as the executive branch to set up separate claims procedures.

Memorandum

Alaska Court System

TO:

Arthur H. Snowden, II
Administrative Director

DATE : March 5, 1986

FROM:

Karla L. Forsythe *Karla L. Forsythe*
Staff Counsel

SUBJECT: SB 412 - Analysis

You asked me to outline the provisions of SB 412, an act relating to claims against the state, and to compare the proposed changes with existing law.

Under current law, a person who has a claim against the state for reimbursement for money, or for compensation for labor, materials or supplies furnished or services given to or for the state, must first submit the claim to the appropriate administrative officer. If that officer disallows all or part of the claim, the person may seek review through the Department of Administration. If the Department of Administration disallows the claim, the person must file a new action in superior court in order to pursue the claim.

Sections 1 and 2 of SB 412 would change this procedure by eliminating the requirement that a claimant file a completely new lawsuit. Instead, the person would follow the judicial review provisions of the administrative procedure act (AS 44.62.560-.570) by filing a notice of appeal with the superior court. The court would review the hearing record compiled by the Department of Administration, and could overturn the decision if it found that the agency did not have jurisdiction, that the hearing was not fair, or that there was a prejudicial abuse of discretion. Court resources would be used more efficiently by handling these claims as administrative appeals rather than new lawsuits.

Under current law, an executive branch agency can establish a claims procedure which is independent from the Department of Administration. However, under a recent Alaska supreme court decision interpreting AS 44.77.070, claims against the legislative and judicial branches must be submitted through the Department of Administration (State v. Dupere, No. 2995, November 22, 1985). Section 3 of SB 412 would permit the legislative and judicial branches to establish separate claims procedures, giving them the same option available under current law to executive branch agencies.

KF/k1