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Alaska State Legislature

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POUCH V
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Senate Committee on Resources

M E M O R A N D U M

January 21, 1986

TO; All Members
Senate Resources Committee

FROM; Staff *[Signature]*
Senate Resources Committee

RE; SB 150 "An Act making miscellaneous amendments to the Alaska Water Use Act (AS 46.15); establishing procedures for administrative and judicial adjudication of water rights under that Act; and providing for an effective date."

SB 150 establishes procedures for the administrative adjudication of water rights in Alaska and makes miscellaneous amendments to the Alaska Water Use Act (AS 46.15).

Section 1 adds a disclaimer to the Water Use Act asserting that a right to appropriate water is not a state guarantee of a particular water quality, volume or pressure, or that water may be withdrawn at a particular cost.

Section 2 adds a new subsection setting out procedures for handling water right declarations existing before 1966.

Section 3 clarifies the existing abandonment and forfeiture provisions.

Section 4 clarifies how the commissioner may terminate an instream flow reservation.

Section 5 allows the Commissioner to initiate an administrative adjudication to quantify and determine the priority of all water rights and claims in a particular hydrologic basin.

Section 6 clarifies the enforcement authority of the Department of Natural Resources.

This bill was heard last session. During the interim the Department of Natural Resources chaired the Federal Reserve Water Rights Work Group, and based on those meetings has suggested several amendments which are included in the proposed committee substitute. In addition, amendments are included from the Alaska Water Resources Board and from Tom Meacham, a member of the Alaska Water Resources Board, whose amendments were concurred in by the Commissioner of Natural Resources.

Enclosures:

Feb. 12, 85	Transmittal letter from Governor
Jan. 31, 85	Fiscal Note
Mar. 04, 84	Resolution from Alaska Water Resources Board
Mar. 14, 85	Letter of support from AWRB with amendments
Mar. 12, 85	Letter from Thomas Meacham with amendments
Mar. 19, 85	Letter from DNR supporting Meacham letter
Apr. 03, 85	Letter from DNR explaining fiscal note
Apr. 10, 85	Letter from Tom Meacham supporting SB 150
Apr. 12, 85	Letter from Rose Rybachek opposing sect. 1-4
Oct. 09, 85	Letter from DNR with further data
Jan. 09, 86	Letter from DNR with amendments
	Excerpt from Western Energy Newsletter
	DNR Fact Sheet - Water Rights in Alaska
	DNR Fact Sheet - Federal Reserve Water Rights
	DNR Fact Sheet - Reserving Water for Instream Use



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

2/12/85

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the adjudication of water rights and making miscellaneous amendments to the Alaska Water Use Act (AS 46.15). The bill comes as a result of the Alaska Water Resources Board resolution 84-5, dated March 14, 1984, recommending the adoption of specific statutory procedures for the administrative and judicial adjudication of water rights, particularly federal reserved water rights.

A federal reserved water right is one created by implication when the federal government withdraws land for a specific purpose, such as for a national forest, Indian reservation, or national monument. The United States Supreme Court first recognized federal reserved water rights in Winters v. United States, 207 U.S. 564 (1908), an Indian reservation case. Since that time, court cases have extended the doctrine to many other types of federal withdrawals. Since a federal reserved water right is created by implication, no specific quantity of water and no priority date for the water right is established until the court does so by decree. To facilitate the ascertainment of the existence of a federal reserved water right, its quantity, and its priority date, Congress passed the McCarran Amendment, 43 U.S.C. sec. 666, allowing water adjudication suits to be brought against the federal government in state courts. The statute requires the adjudication of all rights within a hydrologic basin where a federal reserved water right may exist. This has created lawsuits involving literally thousands of defendants in some of the western states, where there are many appropriators and not enough water. The complexity and expense of such litigation has prompted many western states to enact specific adjudication legislation to facilitate the determination of water rights. The attached bill accord-

ingly draws from the experience of other states and their adjudication statutory schemes.

Section 1 of the bill amends AS 46.15.040 to add a disclaimer to the Water Use Act, asserting that a right to appropriate water which the state grants is not a state guarantee of a particular water quality, volume, or pressure, or that water may be withdrawn at a particular cost. Appropriators in adjudications in other western states have raised this "guarantee" argument. While courts that have reached the issue have rejected the argument, nonetheless it would serve the expeditious resolution of water disputes in Alaska if the lack of guarantee were specified in the Water Use Act.

Section 2 of the bill adds a new subsection to AS 46.15.065, the current statute setting out the procedures for handling individual declarations of water rights existing before July 1, 1966. Under AS 46.15.065(b)(1), the commissioner of natural resources set the deadline for filing those declarations, and approximately 15 are pending. This new subsection makes clear the relationship between the procedures for handling those declarations and the proposed procedures (AS 46.15.165 and 46.15.166 in the bill) for handling basinwide water rights adjudications.

Section 3 of the bill amends AS 46.15.140 to clarify the existing abandonment and forfeiture provisions and to create a rebuttable presumption that if an appropriator does not beneficially use the water covered under a certificate for a period of five successive years, it is the appropriator's obligation to prove to the commissioner that the appropriation has not been abandoned.

Section 4 of the bill clarifies how the commissioner may terminate an in-stream flow reservation.

Section 5 contains the body of the adjudication provisions. It first creates a new AS 46.15.165, which would allow the commissioner of the Department of Natural Resources to initiate an administrative adjudication to quantify and determine the priority of all water rights and claims in a particular hydrologic basin. Under AS 46.15.165, the commissioner would give notice to all relevant appropriators and landowners, including governmental agencies. When the hydrologic basin includes land or water held in trust by the United States for Alaska Natives, such as the Annette Island Reserve, notice would also be sent to relevant authorities in order to protect the Natives' interests, if any, in a federal reserved

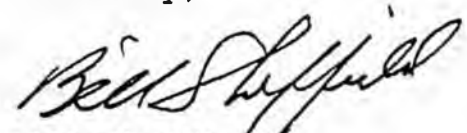
water right. A person or entity claiming a federal reserved water right who is served with notice, but who fails to consent to an administrative adjudication, would be excluded as a participant. Under AS 46.15.165 the commissioner would have authority to adopt procedural regulations and to appoint a master to preside over the adjudication; to hold hearings; to take testimony; to collect evidence; and to make recommendations to the commissioner. Any final determination of water rights the commissioner makes would be subject to an administrative appeal to superior court. Section 5 also creates a new AS 46.15.166 providing that when a federal reserved water right may be involved, and the claimant refuses to consent to an administrative adjudication, the commissioner could initiate the adjudication in superior court, consistent with the McCarran Amendment, 43 U.S.C. sec. 666. In that instance, the bill gives the superior court authority to appoint a designee of the commissioner as a master to perform the same functions a master would in an administrative adjudication, but under the court's supervision.

While the design of the adjudication bill is to provide a procedure for the adjudication of both non-federal and federal reserved water rights, a new AS 46.15.169 makes clear that nothing in the Alaska Water Use Act is to be construed as an admission against the State of Alaska that a federal reserved water right exists in any particular context.

Section 6 of the bill adds a new AS 46.15.255 and 46.15.256, to clarify the Department of Natural Resources' authority to take action to remove unsafe, as well as unpermitted, works of appropriation if the appropriator refuses to do so, and to inspect records of an appropriator pertinent to the permitted or certificated use of water under the Water Use Act.

Given the experience of states other than Alaska in adjudicating water rights and the large number of federal reservations in Alaska, a sound statutory system for adjudication is imperative. Therefore, I urge your prompt action on this bill.

Sincerely,



Bill Sheffield
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB150
Title: Water Use Act

FISCAL DETAIL

Agency Affected: Natural Resources
Program Category Affected: NRMEC

Sponsor: _____
Requestor: _____
Date of Request: _____

BRU, Program or Subprogram(s) Affected: _____
Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

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

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

No fiscal impact.

Prepared By: Ned Farquhar
Division: Commissioner's Office

Phone: 465-2400
Date: January 31, 1985

Approved by Commissioner: [Signature]
Agency: Natural Resources

Date: January 31, 1985

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

7/1/84

Resolution No. 84-5

FEDERAL RESERVE WATER RIGHTS —
BASIN-WIDE ADJUDICATION

The federal government is vested with reserved water rights on numerous federal land withdrawals in Alaska. Federal legislation establishing the reserves specifies the purposes of the reserved water rights and the enacting date establishes their priority date. These water rights include both diversionary and instream uses.

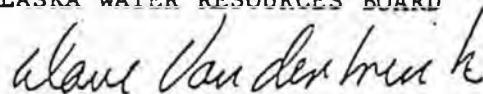
Of the 367.7 million acres in Alaska, federal reserve water rights exist on almost 60 percent of the land mass or over 215 million acres. From a miniscule 2.5 million acres of military land, to 50 and 75 million acres of land for national parks and fish and wildlife refuges respectively, federal reserve water rights issues and problems have the potential to be large as well as complex.

In order for DNR to adequately manage the state's water and adjudicate water rights, it will ultimately be desirable to integrate federal reserved water rights with state adjudicated water rights. The federal government has indicated it will await requests from the states before initiating quantification of federal reserved water rights. Adjudication of claimed federal reserved water rights must be undertaken pursuant to the requirements of the McCarran Amendment (43 USC 666(a)) which requires that the adjudication be basin-wide and judicially determined. The Water Use Act, AS 46.15 does not specifically provide for basinwide court adjudication for federal reserved water rights.

THE ALASKA WATER RESOURCES BOARD, therefore, urges that the Commissioner of the Department of Natural Resources propose legislation for basin-wide adjudication. Current statutes and regulations may be adequate to initiate a basinwide adjudication of federal reserved rights using a declaratory judgement suit in Superior Court. However, more explicit statutes are needed to establish the Superior Court's duties and responsibilities and to set the limits of the Court's authority. This type of case has not previously occurred in Alaska. In addition, the Department of Natural Resources should review existing provisions of the Water Use Act and propose any needed amendments to improve and update the Act.

ADOPTED this 14th day of March, 1984

ALASKA WATER RESOURCES BOARD



David Vanderbrink, Chairman

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

MAR 1 9 1985

WATER RESOURCES BOARD

555 Cordova Street
Pouch 7-005
Anchorage, AK 99510
(907) 276-2653

March 14, 1985

The Honorable Arliss Sturgulewski
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: The Alaska Water Resources Board's Comments on SB 150

Dear Senator Sturgulewski:

Attached are comments regarding SB 150 prepared by the Alaska Water Resources Board during its March 4-8 Board meetings.

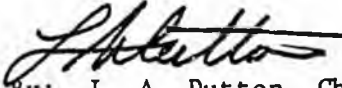
I would like to emphasize that this Board supports SB 150 provided the enclosed suggested changes are incorporated in the proposed legislation.

The Board as a unanimous body supports the adoption of a systematic water adjudication process. If the bill, as amended herein, is not adopted in this legislation, the Alaska Water Resources Board will do everything within its power to see that legislation addressing this issue is introduced in the next session.

Thank you for your kind consideration of these recommendations.

Sincerely,

For
Cyril R. Wanamaker, Chairman
Alaska Water Resources Board


By: L. A. Dutton, Chief
Water Management Section

cc: Governor Sheffield
Senate Resources Committee

Alaska Water Resources Board
Recommendations for changes to
SB 150 "An Act making miscellaneous
amendments to the Alaska Water Use Act."

Although the following proposed changes to SB 150 may not be procedurally correct, the Alaska Water Resources Board requests that the Senate Resources Committee review the substantive changes requested in this document.

The State of Alaska is in need of a workable and systematic water adjudication system. This Board therefore supports the basic principles espoused in SB 150. We do, however, have some reservations about the present draft as it relates to notice requirements and water appropriation abandonment. The Board makes the following recommendations:

- I. Delete Section 46.15.140(d) and replace it with Section 46.15.145(g) which would read:

"A state agency may not abandon or forfeit an instream flow certificate in whole or in part except after public notice."

- II. Add a new subsection to AS 46.15.165 to read:

"AS 46.15.165(c)(c) serve The Alaska Native Village and Regional Corporation whose lands fall within the adjudication area."

- III. Add a new sub-section to AS 46.15.166 to read:

"AS 46.15.166(a)(3) by any person or party asserting a federal reserve water right."

Although these are the only recommended changes of the Board, we would like to point out one section of SB 150 that may have the potential to create future problems. This section is AS 46.15.165(d) as it applies to native allottees served under AS 46.15.165(c)(3).

This board recognizes that one of the primary purposes of SB 150 is to create an adjudication system which satisfies the requirements of the McCarren Amendment 43 U.S.C. Sec. 666, thereby providing for state adjudication of federal reserve water rights. Federal agencies have the resources and responsibility to assert and defend their reserved water rights. This state should not be responsible for a federal agency's failure to assert its rights.

The Bureau of Indian Affairs (BIA), as trustee, has the primary responsibility of protecting a native allottee's property interests in a native allotment. It has been suggested, however, that because of any number of reasons, such as the vast number of allotments in the state, other BIA priorities, the failure of the BIA representatives to properly judge the significance of a water adjudication to the allotment holder, inadvertent omissions, etc., federal reserve water rights which may be a legitimate property interest of the allottee may be forfeited due to BIA failure to assert water right as required in this subsection.

If a pattern of forfeitures of federal reserve water rights on native allotments does emerge as a result of this subsection, it is this Board's recommendation that the state's position should be flexible enough to assure that the necessary amendments will be made to protect any legitimate rights of the native allottees.

We wish to make it clear, however, that this Board does not take the position that the state is responsible for asserting a federal reserve water right for a native allottee. Furthermore, we are not suggesting that the state is responsible for affecting any repairs that are necessary to correct an injury created by a federal agency's failure to perform its responsibilities.

The point that we wish to make is that native allottees are state residents. Any federal reserve water rights that they may be entitled to as an appurtenance to their real property, acquired pursuant to the Native Allotment Act, is a valuable and necessary property interest. Forfeiture of real property interests should not be taken lightly. The forfeiture of a legitimate property interest for a failure to respond to service in a timely manner as required by this subsection is a drastic action and should not, therefore, be taken lightly.

Although we are not suggesting any changes to this subsection at this time, we do wish to demonstrate to the Senate Resources Committee that this subsection may have serious consequences to an identifiable group of longtime Alaska residents and not just to the myriad federal agencies which manage numerous and vast federally withdrawn lands.

BURR, PEASE & KURTZ

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March 12, 1985

Honorable Arliss Sturgulewski, Chair
Senate Resources Committee
Pouch V
Juneau, AK 99811

RE: Senate Bill No. 150 (Amendments to Alaska
Water Use Act, AS 46.15); Our File No. 1515-1

Dear Ms. Sturgulewski:

I am a member of the Alaska Water Resources Board, established under AS 46.15.190. I attended the semi-annual meeting of the Water Resources Board in Juneau on March 5-7, 1985. The Board met with the Senate Resources Committee on water resource matters (including SB 150) on March 8; however, I was unable to participate in that meeting because I had to return to Anchorage early.

In this letter, I would like to offer these observations concerning SB 150, and some proposed amendments. These views are my own, though they were discussed among the Water Resources Board. Some of them are, I believe, contained in a letter to you from the Board. The principal author of that letter is Mike Neimeyer, who is an attorney and a member of the Board.

I believe that the proposed amendments to the Alaska Water Use Act which are contained in SB 150 are necessary for the efficient administration of water rights in Alaska. These include federal reserved water rights which are presently

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unquantified and pose the greatest unknown factor in the future allocation of water resources in Alaska. My involvement in water issues, and in the dilemma of unquantified federal reserved water rights, began during my service as an assistant attorney general for the State of Alaska in the late 1970's. I represented the State in litigating the case of Paug-Vik, Inc., Ltd. v. LeResche, 633 P.2d 1015 (Alaska 1981), which was the first Alaska case dealing with aboriginal-title and federal reserved right water claims.

In 1980, based in part upon the realization that the existing Alaska Water Use Act contained no procedures for the effective, binding adjudication of these claims in a manner which complies with the McCarran Amendment, 43 U.S.C. Sec. 666 (which grants the state jurisdiction over federal entities to determine their water rights), I drafted the precursor of Senate Bill 150. That bill has undergone significant refinement since that time, and has been modified to reflect other states' experiences in adjudicating federal reserved rights. At the present time, I believe the bill generally represents a "state of the art" procedural statute to enable the adjudication of federal water rights in state courts. I urge its adoption by the Legislature.

I do have some specific suggestions for amendments which would resolve the concerns raised by Water Board members at our recent meeting. As you know, Sections 1 through 4 of SB 150 are general, "housekeeping" measures which clarify existing portions of the Alaska Water Use Act, while Section 5 of the bill comprises the procedural measures to deal with basin-wide water adjudications, including federal reserved water rights within those basins. My proposed amendments are as follows:

Page 2, Section 46.15.140(d): This proposed amendment should be removed from the "abandonment" provision of the Water Use Act (46.15.140), and placed in AS 46.15.145, which deals with the administration of in-stream flow reservations. The proposed subparagraph (d) states,

(d) A state agency may not abandon or forfeit a certificate of appropriation in whole or in part except after public notice.

I understand that this provision was originally intended to deal with in-stream flow reservations granted to the State under AS 46.15.145. If so, it should be moved to that section, as AS 46.15.145(g). I would recommend that the provision be

Page Three
March 12, 1985

broadened to cover all in-stream flow appropriators, public and private, since their in-stream flow reservations are required to be made in the general public interest. I recommend that the provision, placed in Section 145, read as follows:

(g) An in stream-flow certificate may not be abandoned or forfeited in whole or in part except after public notice.

Alternatively, if it is not the intention of SB 150 to confine the abandonment by a state agency of a water certificate to in-stream flow reservations, but instead to include all types of water rights held by the State (as the amendment presently implies), the amendment should remain in its existing Section 140. However, it should be broadened to cover both the state and municipalities. The provision would then read,

(d) A certificate of appropriation may not be abandoned in whole or in part by a state agency or a municipality except after public notice.

This change would prevent the involuntary loss of a water appropriation held in the name of the general public, as a result of the errors or omissions of individual public officials. In other words, failure to timely use a water allocation, or to file some document with the State indicating an intention to maintain a use, should not result in the loss of water rights held by the State or by a municipality in the name of all of its residents.

Based upon these considerations of the public interest, it might be best to leave the provision in Section 140(d), as broadened to cover municipal governments, and at the same time to add the suggested provision concerning in-stream flow reservations at subsection (g) of Section 145.

Page 3, Section 46.15.165(c): This section should be amended by inclusion of the following additional category of persons entitled to receive service of notice of an administrative adjudication of basin-wide water rights.

(5) Serve the order on any other person or corporation claiming a federal reserved water right;

(renumber the existing subparagraph (5) as subparagraph (6)).

Page Four
March 12, 1985

Page 4, AS 46.15.165(c)(5): I recommend that to prevent the inadvertent omission of notice to Native allotment owners in a basin-wide water rights adjudication, or to prevent the later default of these claimants, that the Native regional and village corporations which own land within the basin be notified of any general water rights adjudication (regardless of whether the corporations are themselves asserting a claim to water rights). The proposed amendment would read,

(5) serve the order on each Native regional and village corporation organized under the Alaska Native Claims Settlement Act which owns any land within the adjudication area;

The Native regional and village corporations do not have the burden of keeping a Native allottee informed of the progress of a water rights adjudication. However, they have in many cases been helpful in guaranteeing that Native allottees within their area are not overlooked, and that they receive adequate legal and practical advice to protect their interests in such matters. Therefore, it is desirable that in addition to serving the Native allottee with notice, that the Native corporation within the area also receive notice, to better insure that the allottee's interests will be protected.

Page 6, Section 46.15.166: I suggest that the "judicial adjudications" section at AS 46.15.166 be similarly amended to add a category of persons whose federal reserve right claims may be adjudicated judicially in state court, as follows:

(a)(3) by or on behalf of any person ~~or corporation~~ who claims a federal reserved water right.

These two changes, will permit the adjudication of any federal reserved water right claims which may be asserted by Alaska Native corporations, or by any other entity which is not already included in the proposed legislation (and which, by statutory interpretation, would otherwise be presumed to be excluded). Without this amendment, Alaska Native corporations and others who may claim federal reserve water rights will be forced to bring separate litigation in federal court, which defeats the entire purpose of a basin-wide state-court adjudication of all water rights, including federal reserved rights. The inclusion of this category in the legislation would not be an admission by the State that Native corporations legally possess federal reserved water rights, since the disclaimer in proposed AS 46.15.169 of the bill specifically denies that

Page Five
March 12, 1985

adoption of the legislation is an admission by the State that federal reserved water rights exist within the State.

Page 8, AS 46.15.168(b): I recommend that this provision be amended to require that any administrative adjudication on remand from a court be confirmed judicially, if federal reserved water rights are involved. This will complete the judicial adjudication requirements of the McCarran Amendment, 43 U.S.C. Sec. 666. Without this confirmation, a decision after administrative remand may not be binding upon the federal claimants. Therefore, I recommend that this subsection (b) be amended to read as follows:

(b) The commissioner may accept a remand from a state or federal court of a water rights dispute, and may administratively adjudicate it under AS 46.15.165, subject to judicial confirmation of any federal rights which have been adjudicated.

I hope that my concerns with some details of SB 150 can be eliminated by adoption of the amendments I have listed in this letter. However, with or without these amendments, I believe that SB 150 is a vital piece of procedural legislation which is necessary to allow the State to take full advantage of its jurisdiction over federal water claims. When the need arises, the State will be able to react in a timely manner, without any question concerning the procedures to be applied. I urge that your committee recommend the passage of Senate Bill 150.

Sincerely yours,



Thomas E. Meacham

TEM/lstf

cc: Commissioner Esther C. Wunnicke

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

FOUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

March 19, 1985

Honorable Arliss Sturgulewski, Chair
Senate Resources Committee
Pouch V
Juneau, AK 99811

Re: SB 150, Thomas E. Meacham's March 12, 1985 letter


Dear Senator Sturgulewski:

The Department of Natural Resources fully endorses all of the suggestions in the subject letter without exception.

Referring to Section 3 of SB 150 and the proposed amendment to AS 46.15.140(d) on Pg. 2, Mr. Meacham offered alternative wording (see Pg. 3 of his letter). This particular subsection was discussed at some length at the recent Water Resources Board meeting. It was felt that the original intent of this section was to prevent state agencies from abandoning instream-flow reservations and thus the Board recommended that the subsection, in its present form, should be deleted from Section 46.15.140(d) and to be reinserted as Section 46.15.145(g). We now realize that, while our original intent with this subsection was to protect the public interest in instream flow reservations, many other forms of agency and municipal appropriations, e.g., public water supply, provide a direct public benefit. Therefore, we now agree that Mr. Meacham's alternative proposal to leave the subsection in 46.15.140(d) and covering municipal governments through use of the wording or similar wording to that in Mr. Meacham's suggestion is the better way to deal with this section and will best serve the public interest.

We believe the other amendments to the bill proposed by Mr. Meacham in his letter are excellent and their incorporation will greatly improve this proposed legislation.

Sincerely,


Esther C. Wunnicke
Commissioner

cc: Tom Meacham
Tom Hawkins
Mike Frank
L. A. Dutton
Water Resources Board

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

APR 04 1985

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-485-2400

April 3, 1985

The Honorable Arliss Sturgulewski
Chair, Senate Resources Committee
Pouch V
Juneau, AK 99811

Dear Senator Sturgulewski:

During your committee's meeting on March 8 for the Water Resources Board, and the hearing on SB 150, you asked if the committee wanted to consider this bill without a fiscal note because adoption would require funding for data collection and enforcement. We failed to address this in our previous correspondence on this bill.

The reason a fiscal note was not included with the bill when introduced was that, even though we are facing a period of declining revenue and the real likelihood of reduced budgets, it was important to have this proposed legislation enacted. We are concerned that the State could soon be forced into federal reserved water rights adjudication and without having judicial procedure established by law, the State could be at a great disadvantage. We hope to be able to complete the Indian River (Sitka) basinwide adjudication within the limits of our regular operating budget.

Considering the possible future application of this bill, we recognize that the cost of administrative and judicial basinwide adjudications for water rights will be expensive and our intention is to create separate budget projects for these adjudications in our annual budget requests. In this way, except for preliminary research and project planning, administrative and judicial basinwide adjudications will be subject to available funds specifically appropriated by the legislature for each separate project. The funds, when requested, will cover basin boundary determination, hydrology reports, data collection, information research, service of notice, special masters fees, attorneys fees, court costs, etc., -- all within DNR (DGGS and DLWM), the Department of law, and the Judicial Branch. Using this approach, funding for a particular project will expire when the project has been completed.

April 3, 1985

If the State does not enact this legislation and prepare itself to deal with federal reserved water rights, we will run grave risks of:


1. Having our water rights appropriation system come to a standstill in different areas around the State because we have failed to quantify the federal reserved rights through the adjudicative process (no other alternative is available to the State -- McCarren Amendment, 43 U.S.C. 666).
2. Losing state court jurisdiction over the adjudication of federal reserved water rights through the federal agencies filing in federal court.

Referring to the second of these two reasons, federal agency filings in federal court could be a real possibility within a very few years (2-5) if federal agencies are successful in obtaining funds to quantify their reserved rights. We know, for instance, that the Bureau of Land Management, the Fish and Wildlife Service, and possibly the Forest Service are actively seeking funds at this time. If the State does not take the initiative in developing a process for adjudicating federal reserved water rights, e.g., SB 150, it is unlikely that the federal courts will remand these cases to state court as they have done in other states.

In summary, under the State's system of allocating water rights based on prior appropriation, there is no way that dealing with federal reserved water rights can be avoided. We will either adjudicate through state courts, through the Legislature and Congress (state-federal compact), or in federal court -- those are the choices as we see them. Adjudication in state court using the procedures that would be provided by enactment of SB 150 is most likely the least expensive alternative.

Please let me know if there is additional information I might furnish you.

Sincerely,


Esther C. Wunnicke
Commissioner

cc: Tom Hawkins
Mike Frank
L. A. Dutton
Water Resources Board

*If you would
like to discuss this
further, please give me
a call. E.*

APR 12 1985

BURR, PEASE & KURTZ

A PROFESSIONAL CORPORATION

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CHARLES P. FLYNN
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THOMAS E. MEACHAM
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J. W. SEDWICK
JOHN C. SIEMERS

810 N STREET
ANCHORAGE, ALASKA 99501
(907) 276-6100
TELEX: (090) 26-405

April 10, 1985

Honorable Esther C. Wurnicke,
Commissioner, Alaska Department of Natural Resources
Pouch M
Juneau, AK 99811

RE: Proposed Amendments to Alaska Water Use Act (SB 150)
Our File No. 1515-1

Dear Commissioner Wurnicke:

Thank you for sending me a copy of your April 3, 1985 letter to Senator Sturgulewski regarding Senate Bill 150. Apparently Senator Sturgulewski had asked some questions regarding the absence of a fiscal note for SB 150 at the March 8 meeting of the Senate Resources Committee, with the Water Board in attendance. (I had to leave Juneau a day early, and regret that I was unable to attend that meeting).

Your letter explains very well the disadvantages to the State if it is not ready with an enacted statutory procedure for adjudicating federal reserved water rights. Of the two disadvantages you stated, I believe that the loss of clear state-court jurisdiction for federal agencies and individuals who assert federal reserved water rights is the most disadvantageous to the State. Your letter explained that if SB 150 is adopted, administrative or judicial adjudications of water basins would be done through the creation of a separate budget project for each adjudication as it became necessary. Using this approach, the Department of Natural Resources, in conjunction with the Department of Law, could determine which water basins in Alaska were of such a priority (such as Ship Creek in the Anchorage area) as to require commencement of a basin-wide adjudication. As you know, there are only a handful of basins in the State which might require a basin-wide adjudication in the foreseeable future; in other words, this will not be an everyday occurrence, and would only happen when the State decides that there is a real possibility that the existing water demands exceeded the known supply.

Page Two
April 10, 1985

One circumstance which was not mentioned in your letter, and which I believe is an important reason to enact SB 150, is that enactment of the bill will put the State in the "driver's seat" concerning state-court basin adjudications. In addition to offering a reasonable (and even advantageous) alternative to basin-wide litigation in federal court, SB 150 would give strong indication that any basin to be adjudicated will be one which is high on the priority list of the Departments of Natural Resources and Law -- and not merely any water basin which an individual may wish to have adjudicated, whether or not the circumstances in that basin deserves the expenditure of money and effort which a basin-wide adjudication entails.

In Washington State, I understand, the procedures for basin-wide adjudication in state court have been developed ad hoc, and may not be part of a well-considered procedural framework. As a result, regardless of the priorities of Washington's Department of Natural Resources concerning water management, any individual water appropriator may initiate a basin-wide adjudication in a Washington state court. The result is that the natural resources and legal efforts of the State are directed toward researching and defending basin-wide "brush fires" which pale in significance to the more pressing water allocation problems which face the State. Once begun, however, a basin-wide adjudication must be followed to a conclusion because the State and private appropriators may be disadvantaged if they do not participate fully.

Senate Bill 150 would avoid this result by giving the Commissioner (and no one else) the authority to initiate a basin-wide administrative or judicial adjudication under the procedures contained in the bill. Any person attempting to start an adjudication of basin-wide rights outside these procedures would, by definition not be initiating a legitimate, competent basin-wide adjudication.

I have taken the liberty of sending a copy of this letter to Senator Sturgulewski, to indicate this additional reason to support enactment of SB 150.

Sincerely yours,



Thomas E. Meacham
(Member, Alaska Water Resources
Board)

TEM/lstf

Page Three
April 10, 1985

cc: Michael J. Frank, Esq.
Thomas J. Hawkins, Esq.
Mr. Lawrence A. Dutton
Members, Water Resources Board
Honorable Arliss Sturgulewski



APR 19 1985

LIVENGOOD/TOLOVANA MINING DISTRICT

P. O. BOX 73069 - FAIRBANKS, ALASKA 99705

April 12, 1985

Senator Arliss Sturgulewski
Pouch V
Juneau, Ak 99811

Dear Arliss:

I have received copies of several letters to you regarding SB 150. I agree with most of the comments made regarding the wisdom in passing legislation dealing with federal reserved water rights. I believe the questions regarding the fiscal note, as well as other areas of the section dealing with federal reserved water rights have been sufficiently answered to move that section of the bill.

However, I still have the same concerns with section 1-4 of SB 150 as I previously had. This is the so-called housekeeping portion. This section would deprive Alaskans of rights granted to them under the Constitution as well as current water rights law. This portion of the bill still carries a major fiscal note. If the Department of Natural Resources covers the fiscal note internally, then there must be a portion of the duties they are currently budgeted to perform that will not get done...or else they are currently over-budgeted (which I find strange to believe). This portion of the bill should be deleted.

Is there any possibility that you Committee could delete the section dealing with the housekeeping measures (sections 1-4), and pass the portion only dealing with federal reserved water rights? If that is a possibility, I would strongly urge that you do so.

If I can be of any type of assistance to you, please don't hesitate to call.

Keep up the good work.

Sincerely yours,

Rose Rybachek, President

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER MANAGEMENT

POUCH 7-005
ANCHORAGE ALASKA 99510-7005
PHONE (907) 561-2020

October 9, 1985

The Honorable Arliss Sturgulewski
1957 Sheldon Jackson
Anchorage, AK 99508

Re: Senate Bill 150

Dear Senator Sturgulewski:

Enclosed are four articles and our new Fact Sheet discussing federal reserved water rights. Senate Bill 150, dealing with federal reserved water rights, was introduced during the past legislative session. A copy of the bill is enclosed for your reference. SB 150 was not passed out of the Senate Resources Committee. None-the-less, we think it is a crucial piece of water legislation for Alaska because it would establish judicial procedures to adjudicate federal reserved water rights. We will encourage the legislature to give this issue a high priority next year.

Currently, the Water Use Act, AS 46.15, has no procedures for basin-wide adjudication of state administered water rights or claimed federal reserved water rights. The proposed bill would provide a state superior court procedure for efficiently adjudicating federal reserved water rights through the use of existing state agencies expertise. The bill also sets up an administrative basin-wide adjudication procedure for state administered water rights when a controversy exists between appropriators, such as the scarcity of water within a river basin or ground water aquifer.

A federal reserved water right is one created either expressly or by implication when the federal government withdraws land for a specific purpose. The U.S. Supreme Court first recognized federal reserved water rights in Winters v. United States, 207 U.S. 564 (1908), an Indian reservation case. Since that time court cases have extended the doctrine to national forests, parks, refuges, and monuments. Since federal reserved water rights are most often created by implication, no specific quantity of water and no priority date for the water right is established until the court does so by decree. Congress passed the McCarren Amendment, 43 U.S.C. §666, to allow water adjudication suits to be brought against the federal government in state courts to determine the quantity and priority date of federal reserved water rights.

While allowing state court adjudication of federal reserved water quantities and priority dates, the McCarren amendment also requires the adjudication of all rights within a hydrologic basin where a federal reserved water right may exist. This has created lawsuits involving literally thousands of defendants in some of the western states, where there are many appropriators and not enough water. The complexity and expense of such litigation has prompted many western states to enact legislation establishing procedures for determining federal reserved water rights. Our proposed bill draws from the experiences of other states and their statutory schemes.

Federal land reservations make up almost 49 percent, or more than 178 million acres of Alaska's total land mass of 367.7 million acres, and may carry federal reserved water rights.

While competition for water resources in the locale of many of Alaska's federal reservations is limited, we have recently encountered instances where a procedure for adjudication would improve opportunities for state economic development. Applications for additional hatchery water in Sitka were shelved pending study of federal rights to Indian River water. Of more immediate consequence are National Park Service requests for Nuka River appropriations which could reduce Bradley Lake power production potential. These situations will continue to pop up and require a resolution mechanism.

We summarize the bill briefly as follows: Section 1 of SB 150 adds a disclaimer to the Water Use Act that a right to appropriate water which the state grants is not a guarantee of a particular water quality, volume, or pressure, or that water may be withdrawn at a particular cost. This is needed because the state cannot always guarantee the quantity or quality of water due to insufficient hydrologic data in our state.

Sections 2 and 3 of the proposed bill amend AS 46.15.140 to clarify the existing abandonment and forfeiture provisions. It creates a rebuttable presumption so that an appropriator who does not beneficially use water granted by a certificate for five successive years, bears the obligation to prove to the commissioner that the appropriation has not been abandoned. Section 4 of the proposed bill clarifies how the commissioner may terminate an instream flow reservation.

Section 5 contains the body of the proposed basin-wide adjudication provisions. It creates a new AS 46.15.165, which would allow the Commissioner of Natural Resources to initiate an administrative adjudication to quantify and determine the priority of all water rights and claims in a particular hydrologic basin. Section 5 also creates a new AS 46.15.166 providing that when a federal reserved water right may be involved, and the claimant refuses to consent to an administrative

adjudication, the commissioner could initiate the adjudication in superior court consistent with the McCarren Amendment. In that instance the proposed bill gives the Superior Court authority to appoint a designee of the commissioner as a master to perform the same functions a master would have in an administrative adjudication, but under the court's supervision. While the design of the adjudication bill is to provide a procedure for the adjudication of both state granted and claimed federal reserved water rights, a new AS 46.15.169 makes clear that nothing in the Alaska Water Use Act is to be construed as an admission against the State of Alaska that a federal reserved water right exists in any particular context.

Section 6 of the bill adds a new AS 46.15.255 and AS 46.15.256, to clarify the Department of Natural Resources' authority to take action to remove unsafe or unpermitted works of appropriation such as dams or diversions where the appropriator refuses to do so, and to inspect records of an appropriator pertinent to water use under the Act.

Legislation for basin-wide adjudication was first submitted to the Legislature in 1981, but it received little attention. SB 150 was prepared by the Attorney General's Office after extensive review of that initial bill and other western states' laws dealing with federal reserved water rights adjudication. The drafts of this bill were reviewed by the Departments of Fish and Game and Environmental Conservation, members of the Alaska Water Resources Board, the U.S. Forest Service, the Western States Water Council, and the states of Idaho and Wyoming. During the past legislative session, there was one hearing by the Senate Resources Committee on SB 150 and we received a number of written comments. While some questions were raised about several housekeeping amendments included in the bill, the major portion dealing with administrative and judicial basin-wide adjudication was supported by the Alaska Water Resources Board as well as by individual Board members and by the Livengood/Tolovana Mining District.

The first of the enclosed articles, "The Winters of Our Discontent: Federal Reserved Water Rights in the Western States", presents background on the doctrine of prior appropriation and the development of the Winters Doctrine of Federal Reserved Rights. This article is relevant to Alaska because our system of allocating water is the doctrine of prior appropriation. The article presents an analysis of reconciling the prior appropriation doctrine and the Winters Doctrine. The second paper, "Introduction to Reserved Water Rights" by Ralph W. Johnson, discusses the origin of the reservation doctrine and decisions held in some of the major federal reserved water rights cases. These court cases are important to Alaska because federal reserved water rights are a judicial creation and Alaska will be bound by decisions made in courts outside our state.

Page Four

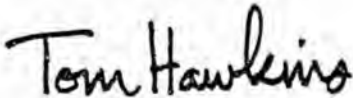
The final two articles, "Reserved Instream Flows in the National Forests: Round Two", and "The New Rules for National Forest Water" address federal reserved water rights on national forests. These articles are pertinent to Alaska because of the two national forests in Alaska, the Tongass and the Chugach, which are the two largest in the country. These reserved water rights will eventually be adjudicated.

A unique feature affecting federal reserve water rights in Alaska is that so much of Alaska's water resources are undeveloped and unappropriated. Thus, unlike the other western states, federal agencies in Alaska may encounter little competition for their water needs. For this reason, we may find that the courts in Alaska may be more lenient in adjudicating federal reserved water rights for the amounts claimed by the federal government. The state's challenge will be to persuade the courts to apply the same standards in Alaska that have been applied outside—granting the minimum amount of water needed for the primary purposes of the land reservation. This is important to ensure that developable water resources are available for the continued growth and development our state.

In summary, under the State's system of allocating water rights based on prior appropriation, there is no way that dealing with federal reserved water rights can be avoided. We will either adjudicate through state courts, through the Legislature and Congress (state-federal compact), or in federal court — those are the choices as we see them. Adjudication in state court using the procedures that would be provided by enactment of SB 150 is most likely the least expensive alternative.

I hope you find these articles enlightening. Please contact us if we may provide more information to you on these subjects.

Sincerely,



Tom Hawkins
Director

Enclosures

cc: Esther C. Wunnicke
Mike Frank
Laura Davis

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

OFFICE OF THE COMMISSIONER

JAN 13 1986

January 9, 1986

The Honorable Arliss Sturgulewski
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Re: SB 150, Basin Wide Adjudication of Water Rights

Dear Senator Sturgulewski:

Recently we had the opportunity to discuss Senate Bill 150 with Senator Halford and state and federal agency representatives that participate in the Federal Reserved Water Rights Work Group chaired by DNR. Based on these discussions, we are proposing the following amendments to SB 150 to address concerns of Senator Halford and the resource management agencies:

Section 46.15.140

Amendment: Subsection (a) of proposed AS 46.15.140 should be rewritten as follows: "The commissioner may declare an appropriation to be wholly or partially abandoned and revoke or amend the certificate of appropriation as to the unused quantity of water if an appropriator, with intention to abandon, does not make beneficial use of all or a part of the appropriated water."

Rationale: This change makes it clearer that, if necessary, part of an appropriation may be revoked for non-use, and the certificate amended to allow continued use of the quantity of water that is still being used.

Proposed by: Senator Rick Halford

Senator Sturgulewski
January 9, 1986
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Amendment: Delete "a certificate of," and substitute "an" in subsection (d) of AS 46.15.140.

Rationale: This change will delete the reference to "certificate of appropriation" and refer only to an appropriation, which by definition [AS 46.15.260(2)] includes reservations of water for instream uses among appropriative water rights. Since instream flow and other reservations are issued with a "Certificate of Reservation," this amendment eliminates an ambiguity which could be interpreted to preclude application of this section to a reservation of water for instream use.

Proposed by: Federal Reserved Water Rights (FRWR) Work Group

Amendment: Move proposed subsection (d) of AS 46.15.140 to become a new subsection (g) of AS 46.15.145. Re-letter subsection "e" as "d".

Rationale: It was agreed that subsection (d) would be more appropriately moved to become a new subsection (g) of AS 46.15.145. The point of this new subsection is to insure that a state agency does not walk away from a reservation of water for instream use without public notice. Through the public notice, potential water users are made aware that water is now available for consumptive beneficial uses. In addition, the members of the public interested in preserving a reservation of water for instream use would have an opportunity to comment in advance.

Proposed by: Senator Rick Halford

Section 46.15.165

Amendment: Add a new subsection (d) "Service of an order under subsection (c) is not an admission by the State of Alaska that the person served with the order has a water right." Reletter the following subsections.

Rationale: This will make it clear that the State's notice to any person of an administrative adjudication is not a representation that the person holds a water right.

Proposed by: FRWR Work Group

Senator Sturgulewski
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Amendment: In Section 46.15.165(e), delete the sentence "The master may be an employee of the state" and substitute "Employment by a federal, state, or local governmental agency does not disqualify a person from being appointed a master under this subsection if in the opinion of the commissioner the person is otherwise impartial and qualified to act as a master."

Rationale: This broadens the pool of possible masters, and helps ensure that any master the commissioner appoints is both impartial and qualified.

Proposed by: FRWR Work Group

Amendment: Move the following sentence, "Any state agency may assert a water right on behalf of the state in the adjudication," from Section 46.15.165(f) to a new subsection (e) and reletter the following subsections.

Rationale: This sentence appears to be out of place and is clearer and more logically placed as a new subsection (e).

Proposed by: FRWR Work Group

Amendment: In subsection (i), change the word "shall" to the word "may."

Rationale: Allows the Commissioner discretion to take this action.

Proposed by: FRWR Work Group

Section 46.15.166

Amendment: In Section 46.15.166(c), delete the word "initially." Delete the phrase "a designee of the Commissioner as" and substitute the phrase "an impartial qualified person as."

Rationale: "Initially" is an unnecessary word. Changing the phrase allows the court to appoint a person of its choice as master, rather than being limited by the Commissioner, and requires that the appointed master be impartial.

Proposed by: FRWR Work Group

Amendment: Also in subsection (c), delete the sentence "the master may be an employee of the state" and substitute "Employment by a federal, state, or local governmental agency does not disqualify a person from being appointed a master under this subsection if in the opinion of the court the person is otherwise impartial and qualified to act as master."

Rationale: This broadens the pool of possible masters, and requires that any master is both impartial and qualified.

Proposed by: FRWR Work Group

Section 46.15.168

Amendment: In Section 46.15.168(c), delete the words "with a private person or the federal government."

Rationale: That arbitration is entered into with a person is understood and "person" is already defined in AS 46.15.260(8) and includes private persons and the federal government; therefore, these words are redundant and unnecessary.

Proposed by: FRWR Work Group

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Amendment: In subsection (d) of Section 46.15.168, delete the word "federal."

Rationale: This will broaden the phrase to include both federal and state court decrees.

Proposed by: FRWR Work Group

Section 46.15.169

Amendment: Rewrite this section as follows: "Nothing in AS 46.15 represents a commitment by the State of Alaska to any specific federal reserved water right."

Rationale: Federal agencies have commented that the wording in proposed Section 46.15.169 suggests that the State of Alaska believes that federal reserved water rights do not exist. The new proposed language clarifies the meaning that the state has made no commitment to any federal reserved water rights for any specific federal land reservations.

Proposed by: FRWR Work Group

Section 46.15.256

Amendment: In Section 46.15.256(3), change "an" to "a", delete "administrative", and after the word "subpoena" add "or subpoena duces tecum."

Rationale: This will make the language concerning subpoenas consistent with other state agencies' statutes.

Proposed by: Assistant Attorney General Mike Frank

Senator Sturgulewski
January 9, 1986
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Senator Halford's comments along with those of the state and federal resource agencies are very useful and we support these proposed changes. Due to the critical need for this legislation, we urge your continued support for this bill.

Sincerely,

Esther C. Wunnicke
Commissioner

cc: Senator Jan Faiks
Senator Jim Sackett
Senator Pat Rodey
Senator Rick Halford
House Resources Committee
Molly McCammon
Jim Ayers

that even if SFC funding is rescinded in the Interior bill, the President is likely to veto the bill because it exceeds the FY-86 budget target. ("Wall Street Journal," Dec. 6; "Inside Energy/with Federal Lands," Dec. 2)

Synthetic Fuels Notes...

On November 19, The Synthetic Fuels Corp. took a series of actions to resolve the status of all projects pending before the SFC. In its consideration of the remaining Third General Solicitation projects in the West, the SFC Board of Directors set a December 13 deadline for the Paraho-Ute project in Utah to submit additional information on a proposed scaled-down project producing 4,500 barrels of shale oil per day. The board received a briefing on the status of the Seep Ridge project (Utah) and directed the staff to resolve all outstanding issues with regard to the project by the next board meeting. The board was also briefed on two proposals for down-sizing the Cathedral Bluffs oil shale project in Colorado. For western projects in the SFC's Fourth General Solicitation, the board directed that negotiations on key financial terms be completed for the Utah Methanol project by January 31, 1986. Finally, for projects in the Corporation's Tar Sands Solicitation, the staff reported that the PR Springs and Sunnyside projects in Utah appear to meet the qualification criteria of the solicitation and are relatively equal when compared against the solicitation's ranking criteria.

Occidental Oil Shale Inc. has now filed two funding proposals with the SFC for "down-sized" developments. Both proposals call for using Occidentals modified in-situ method of retorting shale. ("Rocky Mountain News," Dec. 6)

The Great Plains coal gasification plant is in danger of slipping into the red soon as a result of a second pipeline refusing to pay the contract price for the gas. Tennessee Gas Pipeline Co. recently joined Natural Gas Pipeline Co. in refusing to pay the higher price. In light of the former sponsors' actions, DOE officials last week presented Energy Secretary John Herrington with options for continuing operation of the plant, an official said. None of the options call for shutting down the plant soon, the official added. That will not be done as long as litigation over the validity of the gas contracts ensues, he said. ANG Coal Gasification Co. which runs the plant for DOE, is exploring ways of diversifying the coal gasification operation to increase its revenues. ANG is studying two options: developing and marketing additional byproducts and/or reconfiguring the plant to produce other liquid products. ("Inside Energy/with Federal Lands," Nov. 25)

PUBLIC LANDS

Judge Supports Federal Reserve Water Rights in Wilderness Areas

A U.S. District Court judge in Colorado has ruled that "federal reserve water rights do exist" in 24 wilderness areas in Colorado that are in national forests. Under the ruling, potential water projects to divert water to cities could not be built upstream from a wilderness area since that would rob wilderness areas of water and would deprive this and future generations of Americans "the enduring resources of the wilderness," Judge John L. Kane, Jr. wrote. The Sierra Club had filed suit asking that the federal government be forced to assert water rights for wilderness areas in Colorado Water Court. District Court Judge John Kane agreed with the Sierra Club that when Congress passed the 1964 Wilderness Act, it intended to create a federal reserve water right to protect the pristine nature of lands designated as wilderness areas.

In his decision, Judge Kane said that federal officials were not required by law to file for water rights, though they could have done so to protect the rights. But he noted he was dismayed at the U.S. Forest Service's "benign neglect of this issue of federal reserved water rights" and he called for federal officials to present a plan to "comply with their statutory duty to protect wilderness water resources" to him by April 1.

The lawsuit was opposed by the state, the city of Denver, the Colorado Water Congress, a state association of farm, industrial and municipal water users, and the Mountain States Legal Foundation. It appears likely the judge's decision will be appealed. Gregg Hobbs, attorney for the Water Congress said, that since the decision is the first of its kind, "we ought to see what the appellate courts think about the law." He labeled the decision far-reaching and added "Congress is going to have to look at its implications in designating additional wilderness in Colorado. The wilderness areas could interfere with future development that might be needed in the state."

Sen. William Armstrong (R-CO) said that he and other western congressmen intend to stall the designation of any new western wilderness areas unless they can overturn through legislation the judge's ruling. Armstrong said he is confident that no more Colorado wilderness areas will be created as long as the ruling stands. Sen. Malcolm Wallop (R-WY), chairman of the Senate committee with jurisdiction over wilderness areas has said that he intends to hold up wilderness designation for more than 20 million acres of western lands under study by the Bureau of Land Management until the water rights issue is settled. Other congressmen, however, called for negotiations between environmentalists and water providers to resolve the matter. ("Denver Post," Nov. 27; "Rocky Mountain News," Dec. 6)

Public Lands Notes...

A federal court in Washington, D.C. temporarily enjoined the Department of the Interior from carrying out activities to open up over 170 million acres of federal lands, mostly in the West, to mining and mineral exploration and other development. Environmental groups had sued the Interior Department over its proposed activities, saying that required land use plans had not been prepared for the lands. ("Wall Street Journal," Dec. 5)

CONSERVATION AND RENEWABLE RESOURCES

Renewable Resources Notes..

Planning has begun for the American Solar Energy Society's 11th National **Passive Solar Conference** to be held this summer. The conference will be held on June 8 through 14, 1986 in Boulder, CO. ASES has issued a call for papers and is especially interested in papers dealing with the government role in solar energy development. People interested in submitting a paper should submit an abstract to the ASES office before January 15. For more information contact the ASES office at (303) 443-3130 or call Pamm McFadden at (303) 443-4308.

With momentum still behind them, the Solar Energy Industries Association is attempting to get favorable clarification in the Committee report on the Ways and Means tax reform package. Recently the committee voted to extend the solar tax credits at reduced rates over a three year period. SEIA wants to make it clear that the extension includes photovoltaics. Moreover, it wants the report to



Fact Sheet:

WATER RIGHTS IN ALASKA

SEPTEMBER 1985

WHAT ARE WATER RIGHTS?

A water right is a property right for the use of surface and subsurface waters by the public as provided by the Alaska Water Use Act (Alaska Statutes 46.15). This water right allows specified amounts of water from particular water sources to be diverted, impounded and withdrawn for specified uses. When a water right is granted, it becomes attached to the land where the water is being used for as long as you use it. If the land is sold, the water right goes with the land to the new owner, unless it is separated from the land with the approval of the Department of Natural Resources.

HOW DO I OBTAIN WATER RIGHTS?

To obtain water rights in Alaska you submit an Application for Water Rights to the Alaska Division of Land and Water Management. You are issued a permit to develop a water source and construct the means to use the water. Once you prove you are beneficially using the water, a certificate of appropriation is then issued. This is a legal document which conveys water rights once the water is being used. In Alaska, there are no automatic rights to ground water because of ownership of overlying land and there are no rights to surface waters because of ownership of adjoining or surrounding land. Use of water without a permit or certificate does not give the user defensible legal rights to the water, no matter how long the water use continues.

WHAT COSTS ARE INVOLVED?

To insure that the public is notified of the proposed water use, you are required to pay the cost of legal advertisement in at least one issue of a local newspaper in the vicinity of the proposed appropriation. However, if the proposed use will not exceed 1,000 gallons of water per day in a single-family domestic household there is no requirement to publish an advertisement. If there are more potential users than the source of water can supply, the Department may require legal advertisement of all types of water rights applicants.

WHY SHOULD I APPLY FOR WATER RIGHTS?

1. If you have established water rights, you have a legal standing to assert those rights against conflicting uses of water with people who do not have water rights.

2. A person with established water rights has priority to the use of water over persons who later file for water rights from the same water source.

3. Anyone who constructs works for the taking of water (an appropriation), or uses a significant amount of water without a permit or certificate of appropriation is guilty of a misdemeanor. (Alaska Statutes 46.15.180)

A significant amount of water as defined by regulation [Alaska Administrative Code 11 AAC 93.970(.4)] is the:

- use of 5,000 or more gallons of water in a day from a single source, or;
 - the regular daily or recurring seasonal use of 500 or more gallons of water per day for 10 days or more per year from a single source, or;
 - any water use that may affect the water rights of other users or the public interest.
4. By filing for water rights, you provide valuable information about water use and consumption in Alaska. This is essential in estimating the present uses of water, predicting future withdrawals, protecting the rights of prior appropriators, and providing for proper management for this important resource.

WHAT OTHER WATER RESOURCES PERMITS MIGHT BE NEEDED FROM THE DEPARTMENT OF NATURAL RESOURCES?

A certificate of approval is required if you want to construct or modify a dam of 10 feet or more in height, or if the storage capacity exceeds 50 acre-feet. A separate application form along with a sliding filing fee applies for various size dams as set forth in the regulations (11 AAC 93.200).

An application for reservation of water may be filed to maintain a specified flow or level of water in a water body at a specified point for specified times. By statute, an instream flow reservation can be made to ensure sufficient water is maintained for protection of fish and wildlife, recreation and park purposes, navigation or transportation purposes, and sanitary and water quality purposes.



HOW DO I OBTAIN AUTHORIZATION FOR SHORT-TERM WATER USE?

Temporary authorization may be required for significant short-term water uses such as construction projects. This authorization does not establish a water right but may help avoid problems with fisheries or existing water right holders. Applications should be made in the form of a letter request to the Department with an associated map showing the location of the water take point and location and amount of water use.

Further information about water rights and copies of the application forms may be obtained from one of the following offices. Applications for water rights must be submitted to a Division of Land and Water Management regional office.

DEPARTMENT OF NATURAL RESOURCES DIVISION OF LAND AND WATER MANAGEMENT

SOUTHEASTERN REGIONAL OFFICE
400 Willoughby Avenue
Suite 400
Juneau, Alaska 99801
465-3400

NORTHERN REGIONAL OFFICE
4420 Airport Way
Fairbanks, Alaska 99701
479-2243

SOUTHCENTRAL REGIONAL OFFICE
Frontier Building
3601 C Street, 10th Floor
Pouch 7-005
Anchorage, Alaska 99510
762-2277

Mat-Su Area Office
Central Plaza, Suite 202
Pouch 874008
Wasilla, Alaska 99687
376-4595

DIVISION OF FORESTRY

HAINES AREA OFFICE
Room 6, Gateway Building
Main Street
Post Office Box 263
Haines, Alaska 99827
766-2120

KETCHIKAN AREA OFFICE
318 NBA Building
Post Office Box 5220
Ketchikan, Alaska 99901
225-3070

PETERSBURG AREA OFFICE
Petersburg State Office Building
215 Sing Lee Alley
Box 1580
Petersburg, Alaska 99833
722-3236

DELTA AREA OFFICE
Mile 267.5 Richardson Highway
Post Office Box 1149
Delta Junction, Alaska 99737
895-4225

TOK AREA OFFICE
Mile 12.1 Glenn Highway
Post Office Box 10
Tok, Alaska 99780
883-5134

SOUTHWEST (McGRATH) AREA OFFICE
McGrath Airport
Box 130
McGrath, Alaska 99627
524-3010

KENAI PENINSULA AREA OFFICE
Mile 92.5 Sterling Highway
S.R.2, Box 107
Soldotna, Alaska 99669
262-7559

COPPER RIVER AREA OFFICE
Mile 110 Richardson Highway
Post Office Box 185
Glennallen, Alaska 99588
822-5534



Fact Sheet: FEDERAL RESERVED WATER RIGHTS

JULY, 1985

WHAT ARE FEDERAL RESERVED WATER RIGHTS?

- Federal reserved water rights are created when federal lands are withdrawn from entry (by Congress or other lawful means) for federal use.
- Federal reserved water rights:
 - apply to both instream and out-of-stream use
 - may be created without actual diversion or beneficial use
 - are not lost by non-use
 - priority dates are established as the date the land is withdrawn for the primary purpose(s)
 - are created for the minimal amount of water reasonably necessary to satisfy both existing and reasonable foreseeable future uses of water for the primary purpose(s) for which the land is withdrawn
- Water rights for secondary purposes must be obtained under state law, AS 46.15.

WHY ARE FEDERAL RESERVED WATER RIGHTS IMPORTANT TO YOU?

- Water users in areas where there are federal land withdrawals should file for water rights with DNR in order to protect their use of water. If a basin wide adjudication is started for your river basin, you can then be assured of being included in the adjudication.
- Holders of water rights with priority dates established before the withdrawal of federal lands within a basin will have water rights senior to the federal government. Water users filing for water rights after the withdrawal of federal lands within a specific basin will have water rights with priority dates later than those of the federal government.

HOW ARE FEDERAL RESERVED WATER RIGHTS ADJUDICATED?

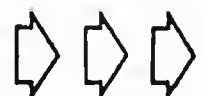
- Federal reserved water rights are a judicial creation. The United States Supreme Court first recognized federal reserved water rights in

Winters v. United States, 207 U.S. 564 (1908), an Indian reservation case. Since that time, court cases have extended the Winters Doctrine to other types of federal land withdrawals.

- Federal law, the McCarren Amendment (43 U.S.C. 666), allows judicial adjudication of federal reserved water rights in state court.
- The McCarren Amendment requires that state court adjudications include all water rights in a river basin, including all claimed federal reserved water rights and state administered water rights.

WHY ARE WE CONCERNED ABOUT FEDERAL RESERVED WATER RIGHTS?

- Because federal reserved water rights are unquantified, DNR does not know how much water is needed or used for the primary purposes of federal land withdrawals in Alaska. Because the unappropriated water available from a water source and the amount of water reserved by a federal withdrawal is unknown, water resources cannot be effectively managed.
- Alaska's growing population and development pressures have caused water supply and water rights conflicts in several areas of unquantified federal reserved water rights. Examples include Sitka's Indian River and Anchorage's Ship Creek.
- For DNR to effectively manage and allocate the state's water and adjudicate water rights, it is necessary to have the federal reserved water rights in Alaska inventoried and quantified by the appropriate federal land management agencies in cooperation with the State of Alaska. The state can then integrate federal reserved water rights with state administratively adjudicated water rights and manage water sources with greater certainty.



HOW MUCH LAND IN ALASKA HAS FEDERAL RESERVED WATER RIGHTS?

- Of the 367.7 million acres in Alaska, almost 49 percent, or more than 178 million acres are reserved federal lands which may have federal reserved water rights:

These federal lands are made up of:

Military land - 2.5 million acres
National Forests - 23.2 million acres
BLM lands - 26.1 million acres
National Parks - 51 million acres
Fish and Wildlife Refuges - 76 million acres

For more information about federal reserved water rights and application forms for water rights, please call, write, or come to one of the following Offices:

DEPARTMENT OF NATURAL RESOURCES DIVISION OF LAND AND WATER MANAGEMENT

SOUTHEASTERN REGIONAL OFFICE
400 Willoughby Avenue
Suite 400
Juneau, Alaska 99801
465-3400

NORTHERN REGIONAL OFFICE
4420 Airport Way
Fairbanks, Alaska 99701
479-2243

SOUTHCENTRAL REGIONAL OFFICE
Frontier Building
3601 C Street, 10th Floor
Pouch 7-005
Anchorage, Alaska 99510
561-2020

Mat-Su Area Office
Century Plaza, Suite 202
Pouch 874008
Wasilla, Alaska 99510
376-4595

DIVISION OF FORESTRY

HAINES AREA OFFICE
Room 6, Gateway Building
Main Street
Post Office Box 263
Haines, Alaska 99827
766-2120

KETCHIKAN AREA OFFICE
318 NBA Building
Post Office Box 5220
Ketchikan, Alaska 99901
225-3070

PETERSBURG AREA OFFICE
Petersburg State Office Building
215 Sing Lee Alley
Box 1580
Petersburg, Alaska 99833
722-3236

DELTA AREA OFFICE
Mile 267.5 Richardson Highway
Post Office Box 1149
Delta Junction, Alaska 99737
895-4225

TOK AREA OFFICE
Mile 124.1 Glenn Highway
Post Office Box 10
Tok, Alaska 99780
883-5134

SOUTHWEST (McGRATH) AREA OFFICE
McGrath Airport
Box 130
McGrath, Alaska 99627
524-3010

KENAI PENINSULA AREA OFFICE
Mile 92.5 Sterling Highway
S.R. 2, Box 107
Soldotna, Alaska 99669
262-7559

COPPER RIVER AREA OFFICE
Mile 110 Richardson Highway
Post Office Box 185
Glennallen, Alaska 99588
822-5534



Alaska Department of

NATURAL RESOURCES

ESTHER WUNNICKE,
COMMISSIONER

Fact Sheet: RESERVING WATER FOR INSTREAM USE

OCTOBER, 1984

WHAT ARE RESERVATIONS OF WATERS?

A reservation of water is a type of water right. The use of water within a stream, lake, or other surface water body may be reserved to maintain an adequate instream flow or level of water for specific activities, such as fish spawning or a river rafting enterprise. Water can be reserved for one or more permissible uses at a particular point or part of a stream or other waterbody, during a certain period of time. Under Alaska Statute 46.15.145, permissible instream uses include:

- Protection of fish and wildlife habitat, migration and propagation.
- Recreation and park purposes.
- Navigation and transportation purposes, and
- Sanitary and water quality purposes.

A reservation of water for one use may also serve as a reservation for another purpose. For example, a reservation for fish spawning may also benefit recreation.

Like out-of-stream water rights, a reservation of water is a property right. However, it cannot be abandoned, conveyed, transferred, assigned, or converted to another use without the approval of the Department of Natural Resources.

WHO CAN APPLY FOR A RESERVATION OF WATER?

Private individuals or organizations as well as government agencies may apply for a reservation of water for instream use. This is not a required permit, but rather an optional water right. Those who wish to divert, impound, or withdraw water from a surface or ground water source will continue to file for their water rights under Title 46 for obtaining diversionary water rights.

HOW CAN I APPLY FOR A RESERVATION OF WATER

- You can get an Application for Reservation of Water (Form 10-1151) at any Department of Natural Resources, Division of Land and Water

Management district office. Your application, however, must be submitted to the district office in the area where your proposed reservation of water will occur.

- Before submitting your application, you should talk with the district office people about the type of work or study needed to quantify the instream water use, and information needed in your application.
- When your application is complete and has been accepted, it will be reviewed to ascertain the need for the reservation of water, impacts on other water right holders, and the public interest. An assessment will be made to determine if water is available for the reservation, and if the hydrologic and technical information in the application is accurate and adequate. Public notice of your application must be given.
- Certificates of reservation, when issued, will be granted to the applicant. Conditions may be placed on certificates.
- Certificates of reservation must be reviewed by the Division of Land and Water Management every ten years, but can be reviewed in less than ten years if changed conditions warrant a review.

WHAT COSTS ARE INVOLVED?

- The Application for Reservation of Water should be accompanied by the appropriate filing fee as set forth in the fee schedule of the Department of Natural Resources.
- You will be required to pay the cost of a legal advertisement to notify the public of your proposed reservation of water.
- If a certificate is issued, you may be required to install and maintain measuring devices, such as stream gages, weirs, or staff gages, and monitor and report on the instream flow or level of water.
- You may also be responsible for additional data collection or analysis during the certificate review period.

WHY SHOULD I APPLY FOR A RESERVATION OF WATER?

You should apply if you want to ensure that the level or flow of water in a stream or lake that you need for your purposes will be available when and where you need it, and will not be appropriated or diverted for another use.

If you have an established instream water right, you have priority use of that water over people who file later for water rights as well as legal standing in case of conflicting uses of water by those without a water right.

Further information about reservations of water for instream uses and application forms may be obtained from the following offices:

WHAT OTHER WATER RESOURCES PERMITS MIGHT BE NEEDED FROM THE DEPARTMENT OF NATURAL RESOURCES?

A permit or certificate of appropriation is required for diverting, impounding, or withdrawing water for use from a water body or ground water source.

A certificate of approval is required if you want to construct or modify a dam ten feet or more in height, or if the storage capacity is 50 acre-feet or more. A separate application form along with a sliding filing fee applies for various size dams as set forth in regulations (11 AAC 93.200).

DEPARTMENT OF NATURAL RESOURCES DIVISION OF LAND AND WATER MANAGEMENT

SOUTHEASTERN REGIONAL OFFICE
400 Willoughby Avenue
Pouch MA
Juneau, Alaska 99811
465-3400

NORTHERN REGIONAL OFFICE
4420 Airport Way
Fairbanks, Alaska 99701
479-2243

SOUTHCENTRAL REGIONAL OFFICE
3601 C Street, 10th Floor
Pouch 7-005
Anchorage, Alaska 99510
276-2653

▲ Mat-Su Area Office
Century Plaza, Suite 202
Pouch 874008
Wasilla, Alaska 99510
376-4595

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 2/6/86

REQUEST

Bill/Resolution No. : CSSB 150 (Res)
 Title : Basinwide Water Rights and Water Use Act

Sponsor : Rules/Governor
 Requestor : Sen. Resources
 Date of Request : 1/25/86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Land and Water

Components : Water Management

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-	?	?	?

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						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

See attached explanation.

Prepared by : Ned Farcubar *EF* *MM* Phone : 465-2400
 Division : Commissioner's Office Date : Feb. 6, 1986

Approved by Commissioner : Wm S. James, Deputy Date : Feb. 6, 1986
 Agency : Natural Resources

Distribution (by Agency preparing fiscal note):

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

Fiscal note background
for SB 150

The Department of Natural Resources submitted a zero fiscal note for SB 150 because there is no scheduled or anticipated basinwide water rights adjudication activity during the next five years. This has been amended to show that there may be costs in future years (beyond year two) if the Department enters into an adjudication that is not currently anticipated. If adjudications become necessary, the Department will submit such project budget requests as are needed to adjudicate each water rights project.

We are able to project the costs of a typical adjudication from work that has taken place to date on Indian River (Sitka) water rights. The costs of a nonbinding preliminary adjudication at Indian River are included in our FY 87 budget submittal (pp. 000548-000549, 000553-000555). The total cost for this adjudication action is estimated at about \$8,000 per year over a three-year period.

Without this legislation, the Department and the Department of Law may face much higher costs if complainants, including federal agencies, attempt to resolve water rights issues in the courts. The legislation will set up a clear administrative system certain to be more cost-effective and efficient than court resolution of water rights issues. In other states lacking an administrative procedure the costs of court adjudications have been high. For instance Wyoming's Big Horn adjudication of non-Indian claims cost that state \$500,000-700,000 when it was negotiated and settled before the trial date; court adjudication of the Indian claims cost the state an estimated \$6,000,000.

An example of a possible area for a large administrative basinwide adjudication in Alaska is the Anchorage Lower Hillside area, encompassing about 16.5 square miles with about 2,250 existing or expected groundwater applications. To adjudicate claims in this area would take approximately three years and would be expected to cost \$500,000-700,000.



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
General Counsel

303 K Street
Anchorage, AK 99501

February 6, 1986

Pat Rodey, Chair
Senate Judiciary Committee
P. O. Box V
Juneau AK 99811

Dear Senator Rodey:

I am writing with regard to CS for Senate Bill 150, which makes miscellaneous amendments to the Alaska Water Use Act and also establishes procedures for adjudication of water rights.

Section 46.15.166(b) of this bill provides that "venue is proper in a complaint filed under (a) of this section if the complaint is filed in a judicial district in which all or part of the hydrologic regime is located."

The 1985 legislature amended AS 22.10.030 to provide that venue for all actions shall be set under rules established by the supreme court. As a result, it appears that determination of proper venue in water rights cases should be set forth in court rules.

I am circulating a copy of this legislation to the presiding judges for any additional comments of a procedural nature, which I will in turn forward to the committee's attention.

Thank you for the opportunity to comment on this legislation.

Sincerely,

Karla L. Forsythe
General Counsel

KF/k1

cc: Arthur H. Snowden, II
Mike Frank, Asst. AG Anchorage

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

OFFICE OF THE COMMISSIONER

February 17, 1986

The Honorable Arliss Sturgulewski
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: SF 150, Basin-wide Adjudication of Water Rights

Dear Senator Sturgulewski:

At the January 27, 1986 hearing on Senate Bill 150, several questions were raised to which we would like to respond. Scott Haskins, a miner speaking from the Fairbanks teleconference, stated that he has encountered problems in getting his water rights from DNR. We researched his cases, and located three water rights for which he applied for lode mining claims which he leased from Placid Oil Company. The case files indicated that our Northern Regional Office attempted to contact Mr. Haskins by phone and by mail several times at the listed phone number and address in order to obtain additional information and to provide public newspaper notice as required by AS 46.15.133. The regional office was unable to get a response from Mr. Haskins, so they attempted to reach him through Placid Oil Company, but again received no response. The regional office subsequently closed the case files because adjudication could not proceed. We did not locate any other water rights filed by Mr. Scott Haskins.

As a follow-up, you asked for an analysis of permits and certificates issued to placer miners. It normally takes several months to issue a water rights permit for a mining operation. This time period assumes the operation is fairly routine and includes the time for inter-agency and public notice and comment as required by AS 46.15.133. At the present time DNR has issued 960 permits and 254 certificates for placer mining.

On a different question, Senator Fahrenkamp asked whether we have drafted regulations to implement SB 150. As we responded at the hearing, regulations have not been drafted. Regulations are normally drafted after a bill is enacted so that

February 17, 1986

the administering agency knows what the final language of the bill is. To do otherwise would require constant revisions of draft regulations as the bill makes its way through the Legislature. It should be noted that all legislators have the opportunity to review and comment on regulations during the public review process. I will ask the Division of Land and Water Management to analyze the bill and identify areas where regulations would be necessary for implementation of the statute.

Finally, Senator Coghill asked for an explanation of "rebuttable presumption." This means that after the state proves that an appropriation has been abandoned for five successive years under AS 46.15.140(b), there is a presumption that the appropriation has been abandoned or forfeited and the burden of proof shifts to the certificate holder to rebut or disprove this presumption.

I hope this answers all the questions raised at the hearing. If we can be of further assistance, please contact us.

Sincerely,

Esther C. Wunnicke

f Esther C. Wunnicke
Commissioner

cc: Senator Fahrenkamp
Senator Coghill
Senator Eliason
Senator Vic Fischer
Senator Halford
Senator Zharoff
Tom Hawkins, Director, Division of
Land and Water Management
Mike Frank, Department of Law

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : 2/6/86

REQUEST

Bill/Resolution No. : CSSB 150 (Res)
 Title : Basinwide Water Rights and
 Water Use Act

Sponsor : Rules/Governor
 Requestor : Sen. Resources
 Date of Request : 1/21/86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Land and Water

Components : Water Management

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-	?	?	?

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						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

See attached explanation.

Prepared by : Ned Farcular *NF* *MM* Phone : 465-2400
 Division : Commissioner's Office Date : Feb. 6, 1986

Approved by Commissioner : *Wm S. James, Deputy* Date : Feb. 6, 1986
 Agency : Natural Resources

Distribution (by Agency preparing fiscal note) :

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

Fiscal note background
for SB 150

The Department of Natural Resources submitted a zero fiscal note for SB 150 because there is no scheduled or anticipated basinwide water rights adjudication activity during the next five years. This has been amended to show that there may be costs in future years (beyond year two) if the Department enters into an adjudication that is not currently anticipated. If adjudications become necessary, the Department will submit such project budget requests as are needed to adjudicate each water rights project.

We are able to project the costs of a typical adjudication from work that has taken place to date on Indian River (Sitka) water rights. The costs of a nonbinding preliminary adjudication at Indian River are included in our FY 87 budget submittal (pp. 000548-000549, 000553-000555). The total cost for this adjudication action is estimated at about \$8,000 per year over a three-year period.

Without this legislation, the Department and the Department of Law may face much higher costs if complainants, including federal agencies, attempt to resolve water rights issues in the courts. The legislation will set up a clear administrative system certain to be more cost-effective and efficient than court resolution of water rights issues. In other states lacking an administrative procedure the costs of court adjudications have been high. For instance Wyoming's Big Horn adjudication of non-Indian claims cost that state \$500,000-700,000 when it was negotiated and settled before the trial date; court adjudication of the Indian claims cost the state an estimated \$6,000,000.

An example of a possible area for a large administrative basinwide adjudication in Alaska is the Anchorage Lower Hillside area, encompassing about 16.5 square miles with about 2,250 existing or expected groundwater applications. To adjudicate claims in this area would take approximately three years and would be expected to cost \$500,000-700,000.

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 150 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making miscellaneous amendments to the Alaska
7 Water Use Act (AS 46.15); establishing procedures for
8 administrative and judicial adjudication of water
9 rights under that Act; and providing for an effective
10 date."

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

12 * Section 1. AS 46.15.040 is amended by adding a new subsection to
13 read:

14 (d) The commissioner's issuance of a permit under AS 46.15.080
15 or of a certificate under AS 46.15.065 or 46.15.120 does not represent
16 a guarantee by the state to the permittee or certificate holder that
17 water will be available for appropriation at a certain volume, quali-
18 ty, artesian pressure, or cost. This subsection does not, however,
19 alter the right a permittee or certificate holder may have against a
20 later appropriator, including a government agency.

21 * Sec. 2. AS 46.15.065 is amended by adding a new subsection to read:

22 (f) The adjudication process for a declaration filed under (a)
23 of this section that is pending before the commissioner on the effec-
24 tive date of this Act continues under the procedures set out in this
25 section until the commissioner finally determines whether the declar-
26 ant is entitled to a certificate. If a certificate is issued under
27 this section, the certificate holder may be included as a participant
28 in an adjudication under AS 46.15.165 or 46.15.166.

29 * Sec. 3. AS 46.15.140 is amended to read:

1 Sec. 46.15.140. ABANDONMENT, FORFEITURE, AND REVERSION OF APPRO-
2 PRIATIONS. (a) The commissioner may declare an appropriation to be
3 wholly or partially abandoned and revoke or amend the certificate of
4 appropriation as to the unused quantity of water if an appropriator,
5 with intention to abandon, does not make beneficial use of all or a
6 part of the [HIS] appropriated water. [AN APPROPRIATION SO FORFEITED
7 AND ABANDONED REVERTS TO THE STATE AND THE WATER BECOMES UNAPPROPRI-
8 ATED WATER.]

9 (b) The commissioner may declare that an appropriator has [AN
10 APPROPRIATION TO BE] wholly or partially forfeited an appropriation,
11 and shall revoke the certificate of appropriation in whole or in part
12 if the [AN] appropriator voluntarily fails or neglects, without suffi-
13 cient cause, to make use of all or a part of the [HIS] appropriated
14 water for a period of five successive years.

15 * Sec. 4. AS 46.15.140 is amended by adding new subsections to read:

16 (c) Failure to use beneficially for five successive years all or
17 part of the water granted in a certificate of appropriation raises a
18 rebuttable presumption that the appropriator has abandoned or for-
19 feited the right to use the unused quantity of water and shifts to the
20 appropriator the burden to prove otherwise to the satisfaction of the
21 commissioner.

22 (d) A state agency or a municipality may not abandon or forfeit
23 an appropriation in whole or in part except after public notice.

24 (e) If the commissioner revokes a certificate in whole or in
25 part, the portion of the certificate covered by the revocation reverts
26 to the state and the water becomes unappropriated water.

27 * Sec. 5. AS 46.15.145(f) is amended to read:

28 (f) At least once each 10 years the commissioner shall review
29 each reservation under this section to determine whether the purpose

1 described in (a) of this section for which the certificate reserving
2 water was issued and the findings described in (c) of this section
3 still apply to the reservation. If the commissioner determines that
4 the purpose, or part or all of the findings, no longer apply to the
5 reservation, the commissioner [HE] may revoke or modify the certifi-
6 cate reserving the water after notice, hearing when appropriate, and a
7 written determination that the revocation or modification is in the
8 best interests of the state [IN ACCORDANCE WITH AS 46.15.140(b)].

9 * Sec. 6. AS 46.15 is amended by adding new sections to read:

10 Sec. 46.15.165. ADMINISTRATIVE ADJUDICATIONS. (a) The commis-
11 sioner may, by order, initiate an administrative adjudication to
12 quantify and determine the priority of all water rights and claims in
13 a drainage basin, river system, ground water aquifer system, or other
14 identifiable and distinct hydrologic regime, including any hydrologi-
15 cally interrelated surface and ground water systems.

16 (b) In the order initiating an administrative adjudication, the
17 commissioner shall describe the appropriate geographic and hydrologic
18 boundaries of the adjudication area. During the adjudication, the
19 commissioner may adjust the boundaries to ensure the efficient admin-
20 istration of water appropriations among users.

21 (c) Upon initiation of the adjudication, the commissioner shall

22 (1) serve the order on each applicant, certificate holder,
23 or permittee listed in the department's records within the adjudica-
24 tion area;

25 (2) serve the order on any agency of the federal, state, or
26 a local government with management authority over land or water within
27 the adjudication area;

28 (3) serve the order on any person who owns or claims land
29 within the adjudication area if the land is held in trust by the

1 United States for the person or if the patent, deed, or certificate to
2 the land from the United States was issued under 25 U.S.C. 334 (Indian
3 General Allotment Act of February 8, 1887, 24 Stat. 389, as amended
4 and supplemented), 25 U.S.C. 372 (the Allotment Act of June 25, 1910,
5 36 Stat. 855), 43 U.S.C. 270-1, 270-2 (the Allotment Act of May 17,
6 1906, 34 Stat. 197), any other allotment act, or the Alaska Native
7 Townsite Act of May 25, 1926, 44 Stat. 629, and serve the order on the
8 United States on behalf of the person;

9 (4) serve the order on the United States and the appropri-
10 ate governing body of the Annette Island Reserve established by 25
11 U.S.C. 495 (the Act of March 3, 1891, 26 Stat. 1101) if the land or
12 water, including hydrologically interconnected water, of the Annette
13 Island Reserve is within the adjudication area;

14 (5) serve the order on any other person claiming a federal
15 reserved water right within the adjudication area;

16 (6) serve the regional corporation and village corporation
17 established under 43 U.S.C. 1601-1628 (Alaska Native Claims Settlement
18 Act) that has a pending land selection or has acquired ownership to
19 land under that act that is located within the adjudication area; and

20 (7) serve the order on each mining claimant of record with
21 the United States and the state within the adjudication area as of the
22 date of the order initiating the administrative adjudication.

23 (d) Service of an order under (c) of this section does not
24 constitute an admission by the state that the person served with the
25 order has a water right.

26 (e) Service of the order under (c)(1) of this section is suffi-
27 cient if mailed by certified mail, return receipt requested, to the
28 last known address that the applicant, certificate holder, permittee,
29 or claimant has given to the division of the department responsible

1 for administration of water rights. A person served under (c)(1) -
2 (7) of this section who fails to appear in a timely manner and assert
3 a claim as prescribed by the commissioner is estopped from subsequent-
4 ly asserting an objection to the adjudication of that person's water
5 rights within the adjudication area, unless the person is entitled to
6 a federal reserved water right and has failed to consent under (k) of
7 this section.

8 (f) In an adjudication under this section, the commissioner may
9 appoint an impartial qualified person as a master to preside over the
10 adjudication, to hold hearings, to take testimony, to collect evi-
11 dence, to propose to the commissioner an order adjudicating the valid-
12 ity of, quantifying, and determining the priority of all water rights,
13 and to take other action the commissioner decides is necessary.

14 (g) A state agency may assert a water right on behalf of the
15 state in the adjudication.

16 (h) A division of the department or another state agency may
17 provide documentary and testimonial evidence, research, and scientific
18 analysis during the adjudication. The commissioner may provide evi-
19 dence, research, or analysis from sources outside government.

20 (i) In conducting an adjudication, the commissioner may take
21 action necessary for the efficient and fair administration and use of
22 the state's water including

23 (1) determining indispensable, necessary, and convenient
24 parties to the adjudication;

25 (2) classifying applicants, certificate holders, permit-
26 tees, and claimants in groups that share similar interests, such as by
27 the amount of water used or the type of use, and restricting their
28 active participation in the adjudication by appointing group represen-
29 tatives for the purposes of receiving notices, examining witnesses,

1 and other adjudicatory functions;

2 (3) entering interlocutory orders appropriate to a disposal
3 of all or part of the issues in the adjudication, and designating the
4 orders as final for the purposes of an appeal to the superior court
5 under (1) of this section; and

6 (4) allocating to a participant the extra costs that the
7 state has incurred in conducting the adjudication because the partici-
8 pant has in bad faith asserted a claim to water wholly without merit
9 or has unreasonably delayed the proceeding.

10 (j) For the purposes of asserting a water right in an adjudica-
11 tion, a certificate issued under this chapter is prima facie evidence
12 of the water right and its priority date.

13 (k) If the commissioner has initiated the adjudication and the
14 federal government or a private person who has been served under
15 (c)(2) - (4) of this section asserts a federal reserved water right
16 but fails to consent in writing to the adjudication, then the commis-
17 sioner may exclude the federal government or the person, respectively,
18 as participants in the adjudication. The commissioner may negotiate
19 the terms of the written consent.

20 (l) A person adversely affected by a final order of the commis-
21 sioner adjudicating water rights under this section may appeal to the
22 superior court within 30 days after the decision is mailed or de-
23 livered to the person.

24 (m) The commissioner may adopt regulations setting out proce-
25 dures for administrative adjudications under this section.

26 Sec. 46.15.166. JUDICIAL ADJUDICATIONS. (a) Instead of initi-
27 ating an adjudication under AS 46.15.165, the commissioner may, with
28 the concurrence of the attorney general, if a federal reserved water
29 right has been or might be asserted by an agency of the United States

1 on its own behalf or on behalf of a person described in AS 46.15.-
2 165(c)(3) - (6), file on behalf of the state a complaint in superior
3 court to initiate a judicial adjudication consistent with 43 U.S.C.
4 666 to quantify and determine the priority of all water rights in a
5 drainage basin, river system, ground water aquifer system, or other
6 identifiable and distinct hydrologic regime, including any hydrologi-
7 cally interrelated surface and ground water systems.

8 (b) Venue is proper in a complaint filed under (a) of this
9 section if the complaint is filed in a judicial district in which all
10 or a part of the hydrologic regime is located.

11 (c) In a complaint brought under (a) of this section, the court
12 may appoint an impartial, qualified person as a master to hold hear-
13 ings, take testimony, collect evidence, and make recommendations to
14 the court regarding the scope and content of a proposed judicial
15 decree that would finally adjudicate the validity of water rights,
16 quantify them, and determine priorities among the water right appro-
17 priations in the adjudication area. Employment by a federal, state,
18 or local government agency does not disqualify an individual from
19 appointment as master under this subsection if the court determines
20 that the individual is otherwise impartial and qualified to act as
21 master. The master may, with the court's permission, take action that
22 the commissioner would be authorized to take in an administrative
23 adjudication under AS 46.15.165.

24 (d) In an adjudication under this section, the court may incor-
25 porate in an order or judgment final orders of the commissioner previ-
26 ously issued under AS 46.15.165.

27 (e) Proceedings under this section shall be conducted without a
28 jury.

29 Sec. 46.15.167. EFFECT OF DECISION. The final order of the

1 commissioner under AS 46.15.165 and the final judgment of a court
2 under AS 46.15.166 are binding on each party to the adjudication and
3 on each person who subsequently makes an application for a water
4 right. The court or the commissioner may retain jurisdiction for a
5 period of time necessary to implement an adjudication order or judg-
6 ment and to provide for subsequent water appropriations.

7 Sec. 46.15.168. OTHER ACTIONS. (a) The state may timely inter-
8 vene as a party in a superior court action potentially involving a
9 determination of the validity, quantity, use, reservation, or priority
10 of water rights.

11 (b) The commissioner may accept a remand from a state or federal
12 court of a water rights dispute and may administratively adjudicate
13 the dispute under AS 46.15.165.

14 (c) The commissioner may enter into arbitration to resolve a
15 water rights dispute.

16 (d) The commissioner may incorporate and apply as binding upon
17 the parties to an administrative adjudication under AS 46.15.165 any
18 court decree concerning the state hydrologic regime involved in the
19 adjudication.

20 Sec. 46.15.169. FEDERAL RESERVED WATER RIGHTS. This chapter
21 does not represent a commitment by the state to a specific federal re-
22 served water right.

23 * Sec. 7. AS 46.15 is amended by adding new sections to read:

24 Sec. 46.15.255. ENFORCEMENT. (a) In addition to a penalty
25 imposed under AS 46.15.180 for violation of an order issued under this
26 chapter, the commissioner may

27 (1) remove or abate unpermitted works of appropriation,
28 diversion, impoundment, or withdrawal;

29 (2) install corrective controls or control works; and

1 (3) seek enforcement of the order by filing an action in
2 the superior court.

3 (b) A person who violates an order issued under AS 46.15.180 is
4 liable for all costs of removal, abatement or installation and for
5 court costs and attorney fees incurred by the state in seeking en-
6 forcement of the order.

7 Sec. 46.15.256. DATA COLLECTION AUTHORITY. To carry out the
8 provisions of this chapter, the commissioner may

9 (1) inspect books, records, meters, gauges, well logs,
10 works of appropriation, diversion, impoundment, withdrawal, or control
11 and other relevant information or physical condition;

12 (2) enter private property at all reasonable times after
13 obtaining a search warrant from a judicial officer if the owner re-
14 fuses consent to entry; and

15 (3) compel the production of relevant information by a
16 subpoena or subpoena duces tecum signed by the commissioner if the
17 commissioner reasonably believes the information is necessary to carry
18 out the purposes of this chapter.

19 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
20 10.070(c).

WATER RESOURCES BOARD

POUCH 7-005
ANCHORAGE, ALASKA 99510-7005
PHONE (907) 561-2020

May 9, 1986

Senator Patrick Rodey
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Senator Rodey:

RE: SB 150

SB 150 is proposed legislation to amend the Alaska Water Use Act and it may be sent to the floor for a vote near the end of this legislative session. SB 150 provides for the adjudication, by the State, of federal reserved water rights and for various housekeeping amendments sought by the Department of Natural Resources.

The Alaska Water Resources Board supports SB 150 unanimously and urges you to vote in favor of this legislation. This bill has also received the support of the Joint Federal/State Working Group on Federal Reserved Water Rights.

The Water Resources Board members represent not only the diverse geographic areas of Alaska but environmental, mining, timber, fisheries and Native Corporation interests as well. It is rare to achieve the degree of consensus that this bill enjoys.

The Board has had three years of involvement in developing this bill and it was close to passage in 1985 when the Subsistence issue delayed it. It would be a serious setback to the State's efforts to adjudicate federal water rights if a delay were to occur again.

Respectfully,



Cyril R. Wanamaker, Chairman

S B

1 6 1

BILL CONTACT/ACTION

DATE	CONTACT/ACTION
3/28	Requested back up from Leg. Library re:
	1976 salary commission establishment +
	1980 abolishment
4/23	C- Proposed
4/3	Patti Macklin 4463- please notify
	Kay Diebels - 789-7582

Companion- SJR 15

Cramer
4/23/85 ✓

Original sponsors: Josephson, V.Fischer,
Kelly and Sturgulewski

1
2 IN THE SENATE

BY THE JUDICIARY COMMITTEE

3 CS FOR SENATE BILL NO. 161 (Judiciary)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION.

6 A BILL

7 For an Act entitled: "An Act relating to compensation of elected offi-
8 cials; and providing for an effective date."

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

10 * Section 1. AS 24.15.020 is repealed and reenacted to read:

11 Sec. 24.15.020. COMPENSATION OF LEGISLATORS. The Commission on
12 Compensation of Elected Officials shall set the compensation of legis-
13 lators.

14 * Sec. 2. AS 39.20.010 is repealed and reenacted to read:

15 Sec. 39.20.010. COMPENSATION OF THE GOVERNOR. The Commission on
16 Compensation of Elected Officials shall set the compensation of the
17 governor.

18 * Sec. 3. AS 39.20.030 is repealed and reenacted to read:

19 Sec. 39.20.030. COMPENSATION OF LIEUTENANT GOVERNOR. The Com-
20 mission on Compensation of Elected Officials shall set the compensa-
21 tion of the lieutenant governor.

22 * Sec. 4. AS 39.20.050 is amended to read:

23 Sec. 39.20.050. EXCLUSIVE COMPENSATION. Retirement benefits
24 established by law and the [THE] compensation fixed by the Commission
25 on Compensation of Elected Officials [LAW] for the governor and
26 lieutenant governor are full compensation [IS IN FULL] for all servi-
27 ces rendered by each of them in any official capacity or employment
28 whatsoever during their respective terms of office, and shall be paid
29 throughout their respective terms of office unless the office becomes

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* Sec. 5. In making initial appointments to the Commission on Compensation of Elected Officials, the governor shall appoint one member to a term of two years, one member to a term of three years, one member to a term of four years, one member to a term of five years, and one member to a term of six years.

* Sec. 6. The compensation of the governor, lieutenant governor, and legislators established by law on the day before the effective date of this Act shall remain in effect until the Commission on Compensation of Elected Officials has issued an order setting the compensation.

* Sec. 7. This Act takes effect on the effective date of an amendment to the Constitution of the State of Alaska creating a commission on compensation of elected officials.

Cramer
4/23/85 ✓

Original sponsors: Josephson, V.Fischer,
Kelly and Sturgulewski

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BY THE JUDICIARY COMMITTEE

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ALASKA STATE SENATE

JOE P. JOSEPHSON
DISTRICT H — ANCHORAGE
1526 F STREET
ANCHORAGE, ALASKA 99501
(907) 277-4419

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4525



OFFICE OF MINORITY WHIP

COMMITTEES
BUDGET & AUDIT
HEALTH, EDUCATION & SOCIAL SERVICES
RULES
TRANSPORTATION
SENATE CHAIR, ANCHORAGE CAUCUS

M E M O R A N D U M

To: Senate State Affairs Committee members
From: Senator Josephson
Date: March, 6, 1985
Re: SB 161 and SJR 15 (Elected Officials Compensation Commission)

In order to provide information to the committee on the workings of the Municipality of Anchorage's Salary and Emoluments Commission, which SB 161 and SJR 15 are based on, I have gotten copies made of all Commission minutes since 1975. The minutes from the most recent meeting of the Commission are attached, and I would be glad to make the others available to any committee member.

Thank you for your consideration of these measures.

SALARY & EMOLUMENTS COMMISSION

MEETING OF SEPTEMBER 10, 1984

I. CALL TO ORDER:

The meeting of the Salary and Emoluments Commission was called to order by Chairperson Pamela Gotham at 4:15 p.m. in the Clerk's Conference Room, 4th floor, room 411, Municipal Hill Building.

II. ROLL CALL:

Present: Pamela Gotham, Robert Piazza, Cornie Sipe.

Absent: Frank Turpin (excused), Dan Alex (unexcused).

III. MINUTES OF PREVIOUS MEETING:

A. Minutes of August 27, 1984 meeting.

Ms. Sipe moved, to approve the minutes of
Mr. Piazza seconded, August 27, 1984 as stated.
and it passed without
objection,

IV. OLD BUSINESS:

Chairperson Gotham stated that Old Business was the proposed salaries for mayor, assembly and school board.

Ms. Sipe asked if the order could be changed so they could take the school board first, assembly second and mayor last.

Chairperson Gotham agreed to the change and stated the proposed compensation changes would be effective January 1, 1985.

Chairperson Gotham then read Resolution 85-3 (see Attachment A).

Ms. Sipe moved, to adopt Resolution 85-3,
Mr. Piazza seconded,

Chairperson Gotham then opened the public hearing on school board compensation and asked if anyone wished to be heard.

Dr. THERESA OBERMEYER introduced herself and her husband, MR. TOM OBERMEYER. Dr. OBERMEYER stated that she does intend to seek School Board, Seat C (seat vacated by the death of Vi Schellenberg) and that she also ran for the school board in 1980. Dr. OBERMEYER stated she was present to discuss equities between assembly and school board, not so much salaries as reimbursements. The ad in the newspaper, about the proposed salary changes, seemed to state a yearly salary for the mayor where assembly and school board salaries were expenses. She understood this compensation to be for expenses of driving to school board

meetings, driving to parent meetings, driving to work sessions and etc. She asked if this was the commission's philosophy that assembly and school board compensation be for expenses and not salaries or salaries for expenses of the work they do.

Chairperson Gotham stated the commission is not in a position to give a philosophy view. The commission deals with compensation levels for individual positions as stated in the Charter. Compensation as stated would be considered salary.

DR. THERESA OBERMEYER felt the basic issue was equity between the assembly and school board. She felt public service should not be for money at all. The word emoluments does mean profit and she felt there should be no profit for public service. She would serve on the school board if there was no reimbursement at all. The school board members run on an areawide basis and there is something like 144,000 registered voters and 244,000 residents in Anchorage. The assembly members are voted on by individual Assembly sections making their constituent level much smaller. The school board members, which there are seven (7), encompass a much broader area than assembly members, which are eleven (11). The municipality employs roughly 4,000 employees compared to 5,200 employees of the school district. There are 42,000 children in the Anchorage schools and this is continually changing. Additionally, the school board does not have the staff to deal with constituent inquiries and complaints.

MR. TOM OBERMEYER, expert in compensation and benefits, stated the issue is equity between school board members and assembly members. Although the nature of the problems presented to the bodies are different, the individual members are equally competent and qualified to deal with them. He believed the school district had become big business with a larger budget and more employees than the municipality. These facts are quantitative accountability factors which must be weighed when determining compensation. It costs more to run for school board than for the assembly. Being a school board member is very time consuming and compensation should be comparable with the assembly. The assembly consumes 5.6% of the municipality's operating budget, a part of which pays for staff support. There are no such identified costs in the school district budget. Both bodies deserve qualified people who are comparably paid. In response to Chairperson Gotham, he indicated the compensation for school board members should be the same as for the assembly.

DR. THERESA OBERMEYER suggested the board consider replacing expense moneys with medical benefits or retirement benefits rather than a salary increase.

Sue Lindenuth, Manager of Records and Benefits, explained that assembly members are eligible to participate in PERS. The assembly member pays the employee contribution and the

municipality pays the employer contribution. She was unsure whether the same situation existed in the school district.

Chairperson Gotham thank Dr. OBERMEYER for bringing up the point but felt the Salary and Emoluments Commission had no authority in the area of such benefits.

MR. RICHARD MARKEY opposed raises for elected officials. Most have paid to get the job they now hold knowing what the salary was. No one ran for office because of the salary.

MR. JOE GRAHAM, 4107 Minnesota, stated that we ought to pay for what we get. Because of the atrocities of Bartlett and Greuning schools, we should pull those responsible. Since the school board hasn't done such a great job recently, increasing the salary at this time is pure lunacy. It isn't necessary to have a great educational background or great accomplishments to be a good school board member. Most often the exercise of common sense will suffice. He felt school board members should run by district rather than areawide. That approach would decrease the cost of running for office and put the elected official closer to his constituency. The element of public service must be considered when determining compensation. Compensation for the school board members should be less than for the assembly because it is a subordinate body and paid on a per meeting basis with a total compensation of \$500/month.

MR. TOM OBERMEYER felt it was important to attract qualified people to the school board, preferably persons with a background in education. That kind of experience is very valuable in making the kinds of decisions the board is asked to make. It would be nice if such qualifications could be built into the job description.

Chairperson Gotham called the question on the motion to approve the increase for school board (Resolution 85-3) members and it passed by a majority voice vote.

Resolution 85-2 (see Attachment B)

Ms. Sipe moved,
seconded by Mr. Piazza,

that the commission adopt Resolution 85-2 establishing compensation for the Anchorage Assembly in the amount of \$1,725 for the Chair and \$1,400 for other assembly members.

Chairperson Gotham opened the motion for commission's comment.

Ms. Sipe pointed out the salaries for elected officials were last increased in 1981. If one considers the amount of increase over the three year period, it represents only 5% per year, at a time when the cost of living increased at a rate between 5% and 7%

each year. The commission seems to have established a pattern of considering raising salaries only every two to three years. If the pattern persists, the commission will not seriously consider another increase until 1987. If one spreads the increase of a six year period, the salary increase amounts to about a 2.5% increase per year, which at the most, just keeps pace with inflation.

Chairperson Gotham noted that under Proposition 24, any salary increases approved by the Salary and Emoluments Commission means some place somebody is losing those dollars. Public service is a short term commitment, not a long term money making commitment. She then opened the meeting to public comments.

MR. DAVID WALSH urged the commission to keep the assembly salary at the current level. Increasing the assembly members' salaries would mean cutting dollars elsewhere in the budget. Eventhough the increase might be justified, it is large for one year. Increasing the compensation to \$20,000 per year makes it possible for a person to pay his bills, maintain his lifestyle and be totally involved in public service. That becomes the first step towards a full-time assembly. The workload is growing and the assembly may have to consider either becoming full time or adding significant staff support in the next few years. But the level of compensation really doesn't determine the level of dedication of the individual. None of the members are in it for the money. The money does provide minimal compensation for time away from family, expenses that go with the job and compensation for a job well done. If one wanted to set a figure equal to what the job is worth, the salary would be too high. To go to zero, really isn't recognizing the sacrifices people make in order to be a public official. The level should be low: considering that (1) it is a part-time salary, and (2) budget constraints as a result of Proposition 24. The current salary level is adequate. In response to Ms. Sipe, he supported the additional money paid to the Chairman of the Assembly because of additional time required to do that job.

MR. TOM OBERMEYER commented according to his calculations, the average salary was \$40,000 to \$50,000 per year. Assembly members should not be short changed as a result of increases to other salaries. He agreed the public did not want full-time assembly members. But it is a consuming job and should be fairly compensated. He noted the cost of campaigning is reaching a point where the average citizen cannot run for assembly or school board.

MR. CHARLES BARCERON stated that being an assembly member is not a full time job. He felt a 15% increase was too much in one year. The public isn't aware the salaries have not been raised for three years. No figures have been presented which show the salaries of similar positions in similar sized cities. Without such information, it is difficult for the public to judge whether the compensation is fair.

ASSEMBLYMEMBER CAROL MASER, 2526 Glenwood, felt the people she represented would object to any of the raises being proposed. The public tends to view assembly members in the same light as the state legislators who recently increased their salaries. The people don't think it is time for raises. It is difficult to sit on the assembly and cut expenditures when the assembly has received an increase in its salary. Being an assembly member is a public service. The position is not sought because of the level of compensation for the job. People run because they feel they can return something to the community. The salary level does not compensate the members for the time spent on municipal affairs. It is important to realize the public does not support this salary increase at this time.

MR. JOE GRAHAM emphasized this is an area where the consumer needs protection. The assembly sets the mill level. The assembly used to sit as a Board of Equalization and set its own salary. Neither of those functions is performed by the assembly now. They are ducking their job. He suggested members be paid \$200 per regular meeting and only for meetings attended. He questioned whether the public was getting its money's worth with the level of service provided by the assembly members, i.e., are packets being read? There are a lot of people who haven't received a raise in salary but that is not reported. Salary surveys often only consider salaries paid by large companies rather than a cross section of wages. He opposed increasing the assembly members' salaries.

MR. CHARLES BARGERON felt the commission should meet every year and consider increasing salaries rather than only consider increases once every three years which makes any increase proposed appear excessive and raise public ire.

MR. RICHARD MARKEY agreed with Mrs. Maser's comments.

Chairperson Gotham called the question on the motion to adopt Resolution 85-2 and it failed by a unanimous voice vote.

The meeting recessed at 5:05 p.m. and reconvened at 5:10 p.m.

Resolution 85-1 (see Attachment C).

Ms. Sipe moved,
seconded by Mr. Piazza,

that the commission adopt
Resolution 85-1 which
establishes compensation for
the Mayor of Anchorage in the
amount of \$80,500 per annum
starting fiscal year 1985.

Chairperson Gotham opened the floor to discussion of the motion.

ASSEMBLYMEMBER CAROL MASER, 2526 Glenwood, felt people sought the position of mayor as a matter of community service. One does not serve the community well by expecting one's salary to continually

be increased. The public in general opposes increases in elected officials' salaries at this time. It is difficult to hold the spending line while accepting increases in pay.

MR. TOM OBERMEYER felt the mayor's salary should be kept in perspective of the average municipal salary. He personally didn't think this particular mayor required additional compensation. He thought the mayor had gone on public record as opposing this increase.

MR. RICHARD MARKEY opposed the pay raise. The morning newspaper reported Mayor Knowles would not accept a pay raise if one were approved by the commission. Mayor Knowles indicated he would give the increase to charity and that is not what the taxpayers have in mind when they pay someone.

MR. CHARLES BARGERON opposed the raise.

MR. TOM OBERMEYER added part of the cause of inflation is government spending on salaries of top government officials.

MR. JOE GRAHAM said the consumers were worried about the big figure increase proposed for the mayor. One shouldn't be overly concerned about the relation of salary strata to job strata. Government is not completely similar to industry. Recently published reports showed that several policemen were paid more annually than the Chief of Police. This decision comes on the heels of the dirty deal of General Motors and Ford Motor Company which gave large raises to executives after jockeying employees into contracts with concession and no pay raises. Government is getting on shaky ground with what it tries to extract from people. He didn't think people were getting what they paid for and the mayor didn't deserve a \$10,000 raise.

MR. DAVID WALSH stated the job of mayor has changed since unification. It is a difficult job and worth the proposed amount of compensation. Traditionally, the mayor has received the highest salary in local government. The result has been salary compression. In the last administration, there were people who wanted to stay in public service but simply couldn't afford to stay. Government can't offer its top executives stock options or offer them very many PERKS at all. Perhaps a little more in salary could have kept those highly qualified people. On the other hand, if the top executive's salary goes up, we can expect the same percentage raise in pay of non-executives. The mayor's salary should go up but not as much as proposed. MR. WALSH felt that perhaps a 5% to 6% increase was reasonable.

Ms. Sipe noted the commission discussed at its last meeting salaries of municipal employees who because of longevity and other factors earn more than the mayor. She stated that Mr. Turpin had asked members of his industry to do an informal study of comparable positions and the results indicated the pay should

be at least \$20,000 more than currently paid. The commission has attempted to look into what other people in similar jobs are paid.

MR. TOM OBERMEYER agreed that salary compression was an important factor to consider. Anchorage is in an escalator role with regard to salaries, especially government salaries. Salaries are not necessarily increasing in relation to other segments of society. There has been a disproportionate increase in government salaries which has created compression at higher levels which may or may not have forced some of the top people out. At some point there will have to be a cap put on salary increases.

MR. JOE GRAHAM agreed the problem of inflation was very bad. The one segment of society which can do something about it is government. Government had better do something about inflation soon.

Chairperson Gotham called the question on the motion to adopt Resolution 85-1 and it failed by unanimous voice vote.

Ms. Sipe moved,
seconded by Mr. Piazza,

that the commission pass a resolution establishing compensation for the municipal mayor at an amount 5% above the current level or \$73,500.

Chairperson Gotham opened the motion to discussion.

MR. RICHARD MARKEY commented a lot of money was spent running for the office of mayor. People don't run for the salary.

Mr. Piazza noted the mayor's salary had not been increased since 1981. Compensation for the position should take into account inflation and whether the amount is adequate for the responsibility regardless of the financial standing of the person who holds the position. Five percent after four years of no increase is on line.

MR. TOM OBERMEYER felt giving the mayor a raise at this time might have undesirable public repercussions especially in light of the budget constraints invoked by Proposition 24. The mayor has publicly stated he does not want an increase.

MR. JOE GRAHAM thought the public felt the budget was overloaded with positions paying \$50,000 per year which are actually worth \$25,000. Part of the job of getting a handle on rising costs of government belongs to the Salary and Emoluments Commission.

Chairperson Gotham called for the vote on the motion to increase the mayor's salary by 5% and it passed:

AYES: Sipe, Piazza.

NAYS: Gotham.

Chairperson Gotham announced the resolution would be numbered Resolution 85-4.

Ms. Sipe moved,
seconded by Mr. Piazza,
and it died,

that consideration of each of
the salaries be placed on next
year's agenda for the Salary
and Emoluments Commission.

MR. TOM OBERMEYER felt the commission should meet more often than once a year. The problem is so great it cannot be dealt with successfully unless the commission meets periodically throughout the year.

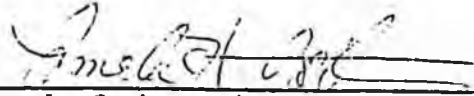
Chairperson Gotham pointed out the Charter provides the commission must meet every two years but prohibits more frequent meetings than every year. In order to change this, it would require a charter amendment approved by the voters. In response to MR. MARKEY, she outlined the Charter requirements for commission composition.

MR. TOM OBERMEYER felt it was important for salaries of elected officials to be reviewed on a frequent basis. In the current situation, very few people with very little information and time set very important salaries.

Ms. Sipe inquired of the Municipal Clerk whether meeting more frequently would work a hardship on the Clerk's office staff. The Charter says the commission cannot consider salaries more frequently than once a year but does not preclude more frequent meetings.

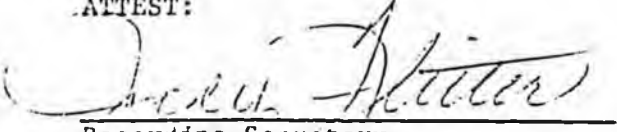
Chairperson Gotham suggested the question be tabled until the commission discussed this with the Municipal Clerk. Chairperson Gotham then ordered a meeting convene in one year and one of the topics of the meeting be consideration of the salaries of elected officials.

The meeting adjourned at 5:45 p.m.



Pamela Gotham, Chairperson

ATTEST:



Recording Secretary

dm

SB 498 AN ACT RELATING TO BONDS OF CONTRACTORS FOR PUBLIC BUILDINGS OR WORKS

AMENDED TITLE: HCS CS * (RLS)

PRIME SPONSORS: RULES

BY REQUEST OF: GOVERNOR

DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
01/14/76	01	0031	FIRST READING -- COMMITTEE REPORTS
01/23/76	02	0138	S.A. -- CS05
01/27/76	03	0170	SECOND READING
01/27/76	04	0170	S.A. CS ADOPTED BY VOICE VOTE
01/27/76	05	0170	READ AGAIN SECOND TIME
01/27/76	06	0170	ADVANCED TO 3RD READING BY UNAN CONSENT
01/27/76	07	0170	THIRD READING
01/27/76	08	0170	PASSED BY VOICE VOTE
05/25/76	17	1351	CONCURRED IN HOUSE AMS BY UNAN CONSENT
05/27/76	18	1446	TRANSMITTED TO GOVERNOR
** 07/01/76	19	1664	SIGNED BY GOVERNOR-CHO130, EFF 09/14/76

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION
01/28/76	09	0174	FIRST READING -- COMMITTEE REPORTS
05/04/76	10	1195	L&M -- DPIAM101, CS03
05/22/76	11	1520	RLS -- CS02, NR01 TAKEN UP IMMEDIATELY
05/24/76	12	1555	SECOND READING
05/24/76	13	1555	RLS CS ADOPTED BY VOICE VOTE
05/24/76	14	1555	ADVANCED TO 3RD READING BY UNAN CONSENT
05/24/76	15	1556	THIRD READING
05/24/76	16	1556	PASSED BY DIV 32-07-01

SB 499 AN ACT RELATING TO COMPENSATION, BENEFITS AND CLASSIFICATION OF PUBLIC OFFICERS AND EMPLOYEES; CREATING THE ALASKA SALARY COMMISSION; EFFECTIVE DATE

AMENDED TITLE: FCCS HCS CS *

PRIME SPONSORS: RULES STATE AFF.

BY REQUEST OF: GOVERNOR

DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
01/14/76	01	0032	FIRST READING -- COMMITTEE REPORTS
02/11/76	02	0281	S.A. -- CS03, NR02
02/18/76	03	0334	FIN -- S.A. CS(AM104, NR02)
02/25/76	04	0388	SECOND READING
02/25/76	05	0388	S.A. CS ADOPTED BY UNAN CONSENT
02/25/76	06	0388	AM TO AM01 NOT ADOPTED BY VOICE VOTE
02/25/76	07	0388	POSTPNMT TO 02/26/76 FLD BY VOICE VOTE
02/25/76	08	0388	AM01 ADOPTED BY VOICE VOTE
02/25/76	09	0388	ADVANCED TO 3RD READING BY UNAN CONSENT
02/25/76	10	0388	THIRD READING
02/25/76	11	0389	PASSED BY DIV 17-02-01
02/25/76	12	0389	EFFECTIVE DATE VOTE SAME AS PASSAGE
02/25/76	13	0389	NOTICE OF RECONSIDERATION GIVEN
02/26/76	14	0398	RECONSIDERATION NOT TAKEN UP
05/25/76	27	1352	FAILED TO CONC IN (H) AMS BY VOICE VOTE
05/26/76	30	1398	FCC -- CROFT MILLER, T. TILLION
06/01/76	32	1616	FCC REPORT ADOPTED BY UNAN CONSENT
06/04/76	33	1650	TRANSMITTED TO GOVERNOR
07/01/76	34	1745	SIGNED BY GOVERNOR-CHO263, EFF 06/25/76
** 07/01/76	35	0032	VARIOUS EFFECTIVE DATES

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION
02/27/76	15	0427	FIRST READING -- COMMITTEE REPORTS
05/11/76	16	1301	JUD -- CS04
05/22/76	17	1520	FIN -- JUD CS07
05/24/76	18	1556	SECOND READING
05/24/76	19	1556	JUD CS ADOPTED BY VOICE VOTE
05/24/76	20	1556	AM01 WITHDRAWN
05/24/76	21	1557	AM02 ADOPTED BY VOICE VOTE
05/24/76	22	1557	AM03 NOT ADOPTED BY VOICE VOTE
05/24/76	23	1557	ADVANCED TO 3RD READING BY UNAN CONSENT
05/24/76	24	1557	THIRD READING
05/24/76	25	1557	PASSED BY DIV 28-11-01
05/24/76	26	1558	EFFECTIVE DATE VOTE SAME AS PASSAGE
05/25/76	28	1590	FAILED TO RECEDE FRM AMS BY VOICE VOTE
05/25/76	29	1590	FCC -- GARDNER GRUENING BRADNER
05/31/76	31	1791	FCC REPORT ADOPTED BY VOICE VOTE

*no Sen State Aff committee
no bill file*

*nothing in H. Judiciary committee
no bill file*



LAWS OF ALASKA

1976

Source

Chapter No.

FCCS HCS CSSB 499

263

AN ACT

Relating to compensation, benefits and classifications of public officers and employees; creating the Alaska Salary Commission; and providing for an effective date.

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

* Section 1. AS 39 is amended by adding a new chapter to read:

CHAPTER 23. ALASKA SALARY COMMISSION.

Sec. 39.23.010. CREATION OF COMMISSION; COMPOSITION. There is established in the Department of Administration the Alaska Salary Commission consisting of five members appointed by the governor. No member of the commission may be a public officer or employee.

Sec. 39.23.020. TERM OF OFFICE; VACANCIES. (a) Commission members serve at the pleasure of the governor for four-year staggered terms. However, two of the initial members appointed to the commission shall serve one-year terms and the rest shall serve, respectively, for terms of two years, three years and four years, the term to be determined by lot at the first meeting of the commission.

(b) A vacancy shall be filled in the same manner as an original appointment for the balance of the unexpired term.

Sec. 39.23.030. OFFICERS; STAFF. The commission shall select a chairman from among its members annually. The director of the division of personnel and labor relations serves as ex officio secretary to the commission and provides research, technical and administrative services.

Sec. 39.23.040. MEETINGS; QUORUM. (a) A majority of the commission members constitutes a quorum to transact the business of the commission. A majority of the commission

members must approve the commission's recommendations to the legislature.

(b) The commission shall meet at the call of the chairman. Notice of meeting dates shall be mailed to each commission member at least 20 days before the date scheduled for a meeting.

(c) The commission shall meet to discuss its findings and recommendations at least twice before submitting its final report to the legislature under sec. 80 of this chapter.

Sec. 39.23.050. COMPENSATION. Members of the commission are entitled to per diem and travel expenses authorized by law for boards and commissions.

Sec. 39.23.060. REVIEW OF COMPENSATION AND BENEFITS; OFFICERS COVERED. The commission shall conduct an on-going review of compensation and retirement benefits for members of the legislature; the governor; the lieutenant governor; commissioners, deputy commissioners, and division directors of each executive department; members of the Alaska Public Utilities Commission; members of the Alaska Pipeline Commission; members of the Alaska Transportation Commission; members of the Alaska Commercial Fisheries Entry Commission; and the judiciary, to determine the appropriateness of compensation and benefits.

Sec. 39.23.070. STUDIES; REPORTS. (a) The commission may request reports or studies from any state agency concerning compensation and retirement benefits for officers listed in sec. 60 of this chapter. A state agency from which a report or study is requested shall furnish it within a period of time prescribed by the commission.

(b) The commissioner of administration shall make initial recommendations concerning compensation and retirement benefits for the officers listed in sec. 60 of this chapter.

Sec. 39.23.080. RECOMMENDATIONS. (a) Before November 15, 1976, and every two years thereafter, the commission shall submit its preliminary findings and recommendations to the governor, the presiding officers of each house of the legislature and the chief justice of the supreme court.

(b) The commission shall give reasonable public notice of its preliminary findings and recommendations, solicit public comments, and give due regard to the public comments, before submitting a final report under (c) of this section.

(c) The commission shall make a final report of its findings and recommendations as to the rate and form of compensation and retirement benefits for the officers listed in sec. 60 of this chapter within 10 days after the first regular session of a legislature convenes. The recommendations regarding compensation become effective, retroactive to January 1, only if approved by concurrent resolution before the end of a session. The recommendations regarding retirement become effective if enacted into law by the legislature.

(d) The commission may submit to the legislature amendments to the report submitted under (c) of this section.

(e) A commission member who does not concur in the proposed or final recommendations may attach written objections to the commission's report of its findings and recommendations.

Sec. 39.23.090. RECOMMENDATIONS RELATING TO THE JUDICIARY, GOVERNOR AND LIEUTENANT GOVERNOR. (a) No recommendations of the commission may have the effect of reducing the compensation or retirement benefits of any member of the judiciary who is a member of the judiciary on the effective date of the commission's recommendation; or reduce, unless by general law applied to all salaried officers of the state, the compensation and retirement benefits of the governor or lieutenant governor who are in office on the effective date of the commission's recommendation.

(b) The commission may recommend reduction in compensation or retirement benefits for individuals who become members of the judiciary or governor or lieutenant governor after the effective date of the commission's recommendation.

Sec. 39.23.100. FILING WITH LIEUTENANT GOVERNOR AND CERTIFICATION. The commission shall, upon transmitting its final recommendations to the legislature, file the recommendations in the office of the lieutenant governor, and upon the recommendations becoming effective the commission shall so certify on the copy of the recommendations on file in the office of the lieutenant governor.

Sec. 39.23.110. POLICY OF THE LEGISLATURE. It is the policy of the legislature that the commission determine the salary schedule and retirement benefits for public officers based upon equitable relationships being maintained among state positions.

Sec. 39.23.120. ADMINISTRATIVE PROCEDURE ACT. The Administrative Procedure Act (AS 44.62) does not apply to proceedings conducted under this chapter.

Sec. 39.23.130. DEFINITIONS. In this chapter

- (1) "commission" means salary commission;
- (2) "judiciary" means justices of the supreme court and judges of the superior and district courts.

* Sec. 2. AS 16.43.060 is amended to read:

Sec. 16.43.060. COMPENSATION OF MEMBERS OF THE ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION. Members of the commission are in the exempt service and shall receive an annual salary as established under AS 39.23.

* Sec. 3. AS 22.05.140(a) is repealed and re-enacted to read:

(a) The chief justice and each associate justice are entitled to receive annual compensation prescribed in

accordance with AS 39.23. Compensation of the chief justice or of an associate justice may not be diminished during his term of office, unless by general law applying to all salaried officers of the state.

- Sec. 4. AS 22.10.190(a) is repealed and re-enacted to read:

(a) Each superior court judge is entitled to receive annual compensation prescribed in accordance with AS 39.23. The compensation of a judge may not be diminished during his term of office, unless by general law applying to all salaried officers of the state.

- Sec. 5. AS 22.15.220(a) is repealed and re-enacted to read:

(a) Each district judge is entitled to receive annual compensation prescribed in accordance with AS 39.23. The compensation of a judge may not be diminished during his term of office, unless by general law applying to all salaried officers of the state.

- Sec. 6. AS 24.15.010 is repealed and re-enacted to read:

Sec. 24.15.010. LEGISLATIVE PER DIEM. The rate of per diem instead of subsistence for each member of the legislature shall be prescribed in accordance with AS 39.23.

- Sec. 7. AS 24.15.020 is repealed and re-enacted to read:

Sec. 24.15.020. ANNUAL LEGISLATIVE SALARIES. Each member of the legislature is entitled to receive annual compensation prescribed in accordance with AS 39.23 to be paid in approximately equal monthly installments. The president of the senate and speaker of the house of representatives are each entitled to an additional annual sum prescribed in accordance with AS 39.23.

- Sec. 8. AS 24.15.030 is amended to read:

Sec. 24.15.030. ADDITIONAL ALLOWANCES. In addition, each member of the legislature is entitled to an annual allowance prescribed in accordance with AS 39.23 for postage, stationery, stenographic services and other expenses.

- Sec. 9. AS 39.20.010 is amended to read:

Sec. 39.20.010. ANNUAL SALARY OF GOVERNOR. The annual salary of the governor shall be prescribed in accordance with AS 39.23.

- Sec. 10. AS 39.20.030 is amended to read:

Sec. 39.20.030. ANNUAL SALARY OF LIEUTENANT GOVERNOR. The annual salary of the lieutenant governor shall be prescribed in accordance with AS 39.23.

- Sec. 11. AS 39.20.080 is repealed and re-enacted to read:

Sec. 39.20.080. SALARY OF EXECUTIVE DEPARTMENT HEAD AND DEPUTY. (a) The annual salary of the head of each principal executive department of the state shall be prescribed in accordance with AS 39.23.

(b) The salary of the deputy head of each principal executive department of the state shall be prescribed in accordance with AS 39.23.

- Sec. 12. AS 39.35.680(5)(B) is repealed and re-enacted to read:

(B) means an elected official of a political subdivision currently serving who elects to pay contributions required of an employee and to be included in the system under sec. 125 of this chapter;

- Sec. 13. AS 39.35.680(5)(C)(v) is repealed and re-enacted to read:

(v) justices and judges of the supreme, superior, and district courts of Alaska; or the governor and lieutenant governor; or the heads, deputy or assistant heads, and division directors of each principal executive department of the state; or the members of the Alaska State Legislature.

- Sec. 14. AS 42.05.091 is amended to read:

Sec. 42.05.091. COMPENSATION OF MEMBERS OF THE ALASKA PUBLIC UTILITIES COMMISSION. Members of the commission are in the exempt service and shall receive an annual salary as established under AS 39.23.

- Sec. 15. AS 42.06.090 is amended to read:

Sec. 42.06.090. COMPENSATION OF MEMBERS OF THE ALASKA PIPELINE COMMISSION. Members of the commission are in the exempt service described in AS 39.25 and receive an annual salary as established under AS 39.23.

- Sec. 16. AS 42.07.071 is amended to read:

Sec. 42.07.071. COMPENSATION OF MEMBERS OF THE ALASKA TRANSPORTATION COMMISSION. The commissioners are in the exempt service under AS 39.25 and shall receive an annual salary as established under AS 39.23.

- Sec. 17. The first appointments to the Alaska Salary Commission shall be made within 30 days after the effective date of sec. 1 of this Act.

- Sec. 18. AS 39.50.200(9) is amended by adding a new subparagraph to read:

(LL) Alaska Salary Commission (AS 39.23)

- Sec. 19. AS 39.25.120(8) is repealed and re-enacted to read:

(8) the director and deputy director of the division of tourism in the Department of Commerce and Economic Development.

- Sec. 20. Section 19 of this Act is retroactive to July 1, 1975.

* Sec. 21. Sections 1, 12, 17, 18, 19, and 20 of this Act take effect immediately in accordance with AS 01.10.070(c). Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15 and 16 of this Act take effect on the effective date of the first recommendations submitted to the legislature under AS 39.23.080(c).

Approved by governor: June 24, 1976
Actual effective date: Secs. 1, 12, 17, 18, 19 and 20:
June 25, 1976; Sec. 19 retroactive to July 1, 1975; Secs. 2,
3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15 and 16 take effect
on the effective date of the first recommendation of the
Alaska Salary Commission under AS 39.23.080(c)

ALASKA SALARY COMMISSION

(AS 39.23.010; 5 members appointed by the governor; 1-year staggered terms; members are subject to financial disclosure)

NAMES AND ADDRESSES	Replacing	New	Appt. Acct.	Term Expires
Dr. Cliff R. Hartman 1433 West 13th Anchorage 99501			11/8/77	1981
Kim Elton 410 Calhoun Juneau 99801			3/27/76	1979
William P. Fell 549 W. Fireweed Lane Anchorage 99503				1978
Kathlene Diebels Chairman RR 6 Box 4136 Juneau 99803			11/5/77*	1981
Karl Johnstone 360 K Street Anchorage 99501			12/25/77	1980

Note: terms decided by lot at first meeting of commission.

CONTACT AGENCY: Administration 465-2200

AK SALARY COMMISSION REPORTS (4) ARE IN THE HISTORICAL LIBRARY
 (call #) — JK 9557
 A 46
 1977

NOV 5, 1976
 JAN 18, 1977
 NOV 14, 1978
 JAN 23, 1979

10 TO 12 R each

ALASKA SALARY COMMISSION

(AS 39.23.010) 5 members appointed by the governor; 4-year staggered terms; members are subject to financial disclosure.

MEMBERS	REPLACING	APPT.	TERM
Dr. Cliff R. Hartman 1433 West 13th Anchorage, Alaska 99501		77/11/08	81/00/00
Mr. Richard Freer 115 Troy Avenue Juneau, Alaska 99801	Kim Elton (effective 78/11/21)	79/01/15	79/00/00
Mr. William P. Fell 549 W. Fireweed Lane Anchorage, Alaska 99503		78/03/09	82/00/00
Ms. Kathlene Diebels RR 6, Box 4136 Juneau, Alaska 99803 (Chairman)		77/11/08	81/00/00
Mr. Karl Johnstone 360 K Street Anchorage, Alaska 99501		77/12/28	80/00/00

CONTACT AGENCY:

Department of Administration
(465-2200)
ID #91

(Note: Terms decided by lot at first meeting of commission.)

ALASKA SALARY COMMISSION

(AS 39.23.010) 5 members appointed by the governor; 4-year staggered terms; members are subject to financial disclosure.

MEMBERS	REPLACING	APPT.	TERM
Dr. Cliff R. Hartman 1433 West 13th Anchorage, Alaska 99501		77/11/08	81/00/00
Mr. Richard Freer 115 Troy Avenue Juneau, Alaska 99801	Kim Elton (effective 78/11/21)	79/01/15	79/00/00
Mr. William P. Fell 549 W. Fireweed Lane Anchorage, Alaska 99503		78/03/09	82/00/00
Ms. Kathlene Diebels RR 6, Box 4136 Juneau, Alaska 99803 (Chairman)		77/11/08	81/00/00
Vacant	Karl S. Johnstone (effective 79/04/01)	77/12/28	80/00/00

CONTACT AGENCY:

Department of Administration
(465-2200)
ID #91

(Note: Terms decided by lot at first meeting of commission.)

HR 43 APPROVING THE EXTENSION OF THE TESORC-ALASKAN PETROLEUM COMPANY AGREEMENT TO PURCHASE ROYALTY CRUDE OIL TAKEN IN-KIND

PRIME SPONSORS: RULES

BY REQUEST OF: GOVERNOR

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
03/23/77	01	0622	FIRST READING -- COMMITTEE REPORTS	05/07/77	08	1153	FIRST READING -- COMMITTEE REPORTS
04/15/77	02	0878	RES COMM REFERRAL ADDED BY UNAN CONSENT	05/10/77	09	1185	RES -- DP07
04/19/77	03	0902	FIN -- DP07, NR02	05/12/77	10	1219	FIN -- DP06, NR01
04/26/77	05	1029	RES -- DP05	05/13/77	12	1239	RES -- OTHER03 TAKEN UP IMMEDIATELY
05/06/77	06	1233	SECOND READING	05/13/77	13	1248	SECOND READING
05/06/77	07	1233	PASSED BY VOICE VOTE	05/13/77	14	1248	PASSED BY DIV 19-00-01
04/20/77	04	0923	LETTER OF INTENT HSE FIN	05/13/77	15	1248	NOTICE OF RECONSIDERATION GIVEN
05/16/77	17	1374	TRANSMITTED TO GOVERNOR	05/13/77	16	1249	PASSED ON RECONSIDERATION BY DIV 19-00-01
05/19/77	18	1406	READ BY GOVERNOR -- SENT TO LT GOVERNOR				
** 06/22/77	19	6000	LEGISLATIVE RESOLVE NO 78	05/12/77	11	1219	LETTER OF INTENT-S SUP 41

HR 44 REQUESTING THE BOARD OF REGENTS OF THE UNIVERSITY OF ALASKA TO HONOR A LEGISLATIVE FINDING

PRIME SPONSORS: RUDD

CO-SPONSORS: BRADLEY, R. CARPENTER DANKWORTH GARDINER GRUENING MCKINNON MEEKINS MILLER SWANSON

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
03/24/77	01	0639	FIRST READING -- COMMITTEE REPORTS				
** 04/20/77	02	0923	HESS -- DNPO2, CSO2, NR02 JUDICIARY RULES				

HR 45 APPROVING CERTAIN RECOMMENDATIONS OF THE SALARY COMMISSION

AMENDED TITLE: CS • AM

PRIME SPONSORS: GARDINER

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
03/24/77	01	0640	FIRST READING -- COMMITTEE REPORTS	04/29/77	08	1010	FIRST READING -- COMMITTEE REPORTS
04/26/77	02	1029	JUD -- DNPO1, CS04	05/19/77	09	1321	FIN -- CS02, OTHER05
04/28/77	03	1075	SECOND READING	05/21/77	12	1354	RES -- OTHER03
04/28/77	04	1075	JUD CS ADOPTED BY UNAN CONSENT	05/25/77	13	1422	SECOND READING
04/28/77	05	1075	AM01 NOT ADOPTED BY DIV 07-31-02	05/25/77	14	1422	PASSED BY DIV 13-06-01
04/28/77	06	1076	AM02 ADOPTED BY UNAN CONSENT				
04/28/77	07	1076	PASSED BY DIV 29-09-02	05/19/77	10	1321	LETTER OF INTENT-S SUP 45
05/26/77	15	1542	TRANSMITTED TO GOVERNOR	05/19/77	11	1321	SEN SUPPL 45 FISCAL NOTE
06/03/77	16	1666	READ BY GOVERNOR -- SENT TO LT GOVERNOR				
** 06/22/77	17	6000	LEGISLATIVE RESOLVE NO 94				

STATE OF ALASKA

THE LEGISLATURE

1977

Source

Legislative
Resolve No.

CSHCR 45 Jr.

94



Approving certain recommendations of the Salary Commission.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS Chapter 263, Session Laws of Alaska 1976 established the Alaska Salary Commission; and

WHEREAS the Salary Commission was granted the responsibility of conducting an on-going review of compensation and retirement benefits for members of the legislature, the governor and lieutenant governor, commissioners, deputy commissioners and directors of executive departments, members of the Alaska Public Utilities Commission, the Alaska Pipeline Commission, the Alaska Transportation Commission, and the Alaska Commercial Fisheries Entry Commission, and members of the judiciary; and

WHEREAS the recommendations of the Salary Commission as to compensation become effective, retroactive to January 1, 1977, only if approved by concurrent resolution of the legislature before the end of the first session of the legislature; and

WHEREAS the Salary Commission has submitted its recommendations to the legislature regarding the compensation of the officers covered under ch. 263 SLA 1976 and the legislature has considered them; and

WHEREAS Recommendation Number (1)(A) of the Salary Commission proposes to set the annual salary of the governor of Alaska at \$52,992; and

WHEREAS Recommendation Number (2)(A) of the Salary Commission proposes to set the annual salary of the lieutenant governor of Alaska at \$47,304; and

WHEREAS Recommendation Number (3)(A) of the Salary Commis-

sion proposes to set the annual salary of commissioners of principal executive departments at \$47,304; and

WHEREAS Recommendation Number (1)(C) proposes to grant longevity pay increases to the commissioners of the principal executive departments at the discretion of the governor which are equal to 3.75 per cent of the annual salary of the commissioner for each two years of continuous service, with service accrual to begin January 1, 1977; and

WHEREAS Recommendation Number (4)(A) proposes that there be no change in the annual salary of \$42,372 for beginning deputy department commissioners; and

WHEREAS Recommendation Number (4)(C) proposes to grant longevity pay increases to the deputy commissioners of the principal executive departments at the discretion of the departmental commissioner which are equal to 3.75 per cent of the annual salary of the deputy commissioner, for each two years of continuous service, with service accrual to commence from the date of the last step increase or upon the date of hire following approval of this recommendation; and

WHEREAS Recommendation Number (5)(A) proposes that there be no change in the salary level of directors and the Salary Commission also recommends that the administrative rules be changed so that the salary entry level of new directors be in the "A" step of the salary range at which they are hired; the commission recognized that promotions from deputy director to director of a division may sometimes necessitate that those receiving a promotion move into a step other than "A" in order to be assured a salary increase; in such cases, that person receiving the promotion should enter at the lowest step necessary to receive a salary increase; the commission also recognized that some directors are now covered by a negotiated agreement and the commission's recommendations will not apply to them until that agreement expires; and

WHEREAS Recommendation Number (5)(B) proposes that the salary progression for directors follow the steps outlined in the state salary schedule as outlined in AS 39.27.011; and

WHEREAS Recommendation Number (6)(A) proposes that members of the Alaska Public Utilities Commission be paid \$39,372 annually; and

WHEREAS Recommendation Number (6)(B) proposes that the chairman of the Alaska Public Utilities Commission be paid an additional \$500 annually, prorated as part of the regular salary; and

WHEREAS Recommendation Number (6)(D) proposes to grant longevity pay increases to each commissioner of the Alaska Public Utilities Commission at the discretion of the governor which are equal to 3.75 per cent of the annual salary of the commissioner for each two years of service, with service accrual beginning January 1, 1977; and

WHEREAS Recommendation (7)(A) proposes that members of the Alaska Transportation Commission be paid \$39,372 annually; and

WHEREAS Recommendation Number (7)(B) proposes that the chairman of the Alaska Transportation Commission be paid an additional \$500 annually, prorated as part of the regular salary; and

WHEREAS Recommendation Number (7)(D) proposes to grant longevity pay increases to each commissioner of the Alaska Transportation Commission at the discretion of the governor which are equal to 3.75 per cent of the annual salary of the commissioner for each two years of service, with service accrual beginning January 1, 1977; and

WHEREAS Recommendation Number (8)(A) proposes that members of the Alaska Commercial Fisheries Entry Commission be paid \$39,372 annually; and

WHEREAS Recommendation Number (8)(B) proposes that the chairman of the Alaska Commercial Fisheries Entry Commission be paid an additional \$500 annually, prorated as part of the regular salary; and

WHEREAS Recommendation Number (8)(D) proposes to grant longevity pay increases to each commissioner of the Alaska Commercial Fisheries Entry Commission at the discretion of the governor which are equal to 3.75 per cent of the annual salary of the commissioner for each two years of service, with service accrual beginning January 1, 1977; and

WHEREAS Recommendation Number (9)(A) proposes that members of the Alaska Pipeline Commission be paid \$39,372 annually; and

WHEREAS Recommendation Number (9)(B) proposes that the chairman of the Alaska Pipeline Commission be paid an additional \$500 annually, prorated as part of the regular salary; and

WHEREAS Recommendation Number (9)(D) proposes to grant longevity pay increases to each commissioner of the Alaska Pipeline Commission at the discretion of the governor which are equal to 3.75 per cent of the annual salary of the commissioner for each two years of service, with service accrual beginning January 1, 1977; and

WHEREAS Recommendation Number (10)(A) of the Salary Commission proposes to confirm the annual salary of supreme court judges at \$52,992; and

WHEREAS Recommendation Number (11)(A) of the Salary Commission proposes to confirm the annual salary of the superior court judges at \$48,576; and

WHEREAS Recommendation Number (12)(A) of the Salary Commission proposes to confirm the annual salary of district court judges at \$41,068; and

WHEREAS Recommendation Number (13)(A) proposes that state legislators be paid an annual salary of \$11,750; and

WHEREAS Recommendation Number (13)(B) proposes that the president of the senate and the speaker of the house each receive an additional \$500 per year payable on the opening day of each regular session of the legislature or upon confirmation by the House or Senate after the opening of a regular session

of the legislature; and

WHEREAS Recommendation Number (13)(D) proposes that legislators receive an annual allowance of \$4,000; and

WHEREAS Recommendation Number (13)(F) proposes that legislators receive per diem at the same rate as state employees, including regional variations where applicable; legislators who do not live in their city of residence during regular or special legislative sessions will receive per diem at the short-term rate; interim committee work should be paid at the short-term per diem rate; however, per diem is to be paid at the long-term (lower) rate if legislators are able to stay in their city of residence while on legislative business;

BE IT RESOLVED that the Alaska State Legislature approves the listed Recommendations in the language and form stated in this resolution; and be it

FURTHER RESOLVED that those parts of Recommendation 13 which are not quoted above are considered by the legislature to be beyond the authority of the Salary Commission, are therefore not part of a proper Recommendation, and are not approved.

from H. J. [unclear] till [unclear]
on HB 274

Terry Gardiner

Box 6032, Ketchikan, Alaska 99901 Pouch V, Juneau, Alaska 99811

Minutes of the Committee Meeting of 3/17/77

The meeting was called to order by Chairman Gardiner at 7:00p.m.

Present were: Chairman Gardiner

Vice - Chairman Miles

Rep. Brown

Rep. Specking

Rep. Dankworth

Absent were:

Rep. Eliason

Rep. Rudd

The Committee first took up the salary commission report and heard testimony from Kay Deeble of the Salary Commission. Ms. Deeble briefly went over parts of the report, dealing with the executive and judicial categories and discussed the three major aspects of legislative provisions dealing with salary, per diem, and vouchers. Ms. Deeble was questioned by the Committee and other Legislators and observed at the meeting regarding specific methods by which they arrived at the per diem recommendation and the vouchery recommendations.

The Committee then heard from LAA Attorney, Dick Bradley, regarding a request that had been made by Chairman Gardiner for a legal opinion dealing with aspects of the Salary Commission report. A three page memo was handed out to the Committee members prior to the meeting in the full report had not been typed as of the time of the meeting but Mr. Bradley gave an oral presentation.

Rep. Swanson testified briefly on HB 8 which would repeal the salary commission and the salary commission recommendations.

Speaker Malone testified on HB 8 and HB 274, 275, 276, 277, 278 & 279. Malone testified in favor of repealing the salary commission report with respect to legislative compensation or taking the legislative compensation out of the preview of the salary commission.

Rep. Parr testified in favor of amending the existing law governing the salary commission but basically letting it continue in its work. He also testified that the legislative recommendations of the report should be ignored and the legislature enact its own salary and benefit levels.

The Committee discussed the various proposals brought up through the testimony but did not reach a conclusion on how to treat the salary commission report nor the other items of legislation pending a presentation of the issue to the full Committee.

The meeting adjourned at 10:00 pm.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

M E M O R A N D U M

March 14, 1977

SUBJECT: Final Report of Salary Commission (W.O. #3646)
TO: Representative Terry Gardiner
FROM: Richard A. Bradley ^B
Legislative Counsel

By your request of March 7, you have requested my comments on the January 18, 1977 report of the Alaska Salary Commission to the Legislature.

Your request asked:

(1) Do the Salary Commission recommendations follow the law (AS 39.23)? If they do not, set out the questionable areas.

(2) May a resolution approving the request amend the recommendations and condition legislative approval or is the legislature limited to an approval or rejection of the recommendations?

You also asked that I draft a resolution consistent with my conclusions.

An analysis of AS 39.23 is required in order to provide you the advice you request.

AS 39.23.080(c) provides that the Salary Commission will make a

"final report of its findings and recommendations as to the rate and form of compensation and retirement benefits ... within 10 days after the first regular session of a legislature convenes. The recommendations regarding compensation become effective, retroactive to January 1, only if approved by concurrent resolution before the end of a session. The recommendations regarding retirement become effective if enacted into law by the legislature." (Emphasis added.)

Representative Terry Gardiner
March 14, 1977
Page 2

Sec. 80(d) allows the commission to submit amendments to its report, apparently without any limitation as to time, except that a new report is required for a new legislature. Recommendations as to compensation lapse if not affirmatively approved during the first session of each legislature and the law contains no express mechanism for resubmission of proposals regarding compensation to the second session of the legislature of the first recommendations lapse.

Sec. 120 provides the "Policy of the Legislature:"

It is the policy of the legislature that the commission determine the salary schedule and retirement benefits for public officers based upon equitable relationships being maintained among state positions. (Emphasis added)

In my opinion, the legislature by the enactment of AS 39.23 has divested itself of the authority to set the compensation of the public officers listed in AS 39.23.060. While legislative approval is required, it is by a resolution of relatively low dignity, a concurrent resolution. Uniform Rules, Alaska State Legislature, Rule 51(c). If a concurrent resolution is used, in my opinion the legislature is limited to an approval or disapproval of the recommendations as to compensation. If a recommendation is disapproved, the legislature has in effect directed the commission to resubmit recommendations. I note that §80(d) allows the commission to amend its recommendations and it may clearly amend if a recommendation is rejected.

A more difficult question is presented by the possibility that the legislature may wish to reject some recommendations while approving the remainder. The charge to the commission in §110 of the law is to establish a "schedule" "based upon equitable relationships being maintained among state positions." At least in theory, an approval that is less than total may cause the establishment of inequity among the positions. Nonetheless, in my judgment the legislature may approve or disapprove all the recommendations or it may approve only a part. Note that while in my opinion the legislature retains an option to disapprove recommendations, its failure to approve a recommendation becomes a rejection at the "end of [the] session." Sec. 80(c).

A proposal as to retirement benefits must be adopted by an amendment to the retirement act by law.

I assume that you recognize, moreover, that my opinion as to the limited options that the legislature possesses is neces-

Representative Terry Gardiner
March 14, 1977
Page 3

sarily founded on a decision by the legislature to remain within the framework of AS 39.23. The legislature cannot, by the enactment of any law, divest itself of the underlying constitutional prerogative of setting the compensation of the officers listed in AS 39.23.060.

Accordingly, in my opinion, the legislature

- (1) must approve a recommendation before it can take effect.
- (2) may approve less than all of the recommendations.
- (3) may not change a recommendation as to compensation by a concurrent resolution.
- (4) may approve a recommendation as to retirement benefits only by amending the retirement law.

My opinion as to the consistency of the Commission's recommendations with AS 39.23, existing law, and the Constitution is contained in a separate memorandum.

RAB:hjd

HR 273 AN ACT RELATING TO BOROUGHS

AMENDED TITLE: CS * AM

PRIME SPONSORS: PARR

CO-SPONSORS: BENNETT BROWN CARPENTER SMITH

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
02/25/77	01	0394	FIRST READING -- COMMITTEE REPORTS	04/28/77	17	0986	FIRST READING -- COMMITTEE REPORTS
04/18/77	02	0890	CRA -- CS04, NRO2	05/13/77	18	1237	CRA -- DP01, ONP01, NRO1
04/26/77	03	1032	SECOND READING	05/14/77	19	1261	RLS -- OTHER03 TAKEN UP IMMEDIATELY
04/26/77	04	1032	CRA CS ADOPTED BY UNAN CONSENT	05/14/77	20	1262	SECOND READING
04/26/77	05	1033	AM01 ADOPTED BY UNAN CONSENT	05/14/77	21	1262	ADVANCED TO 3RD READING BY UNAN CONSENT
04/26/77	06	1033	ACTION 005 NOT RESCINDED BY DIV 14-21-05	05/14/77	22	1263	THIRD READING
04/26/77	07	1033	ADVANCED TO 3RD READING BY UNAN CONSENT	05/14/77	23	1263	PASSED BY DIV 17-03-00
04/27/77	13	1058	AM02 ADOPTED BY DIV 23-15-02	05/14/77	24	1263	NOTICE OF RECONSIDERATION GIVEN
04/27/77	14	1058	ADV. NCEO TO 3RD READING BY UNAN CONSENT	05/14/77	25	1263	PASSED ON RECONSIDERATION BY DIV 13-03-04
04/26/77	08	1033	THIRD READING				
04/26/77	09	1034	PASSED BY DIV 27-08-05				
04/26/77	10	1034	NOTICE OF RECONSIDERATION GIVEN				
04/27/77	11	1056	READ AGAIN THIRD TIME				
04/27/77	12	1057	RETURNED TO 2ND READING BY DIV 24-14-02				
04/27/77	15	1058	READ AGAIN THIRD TIME				
04/27/77	16	1059	PASSED ON RECONSIDERATION BY DIV 32-06-02				
05/19/77	26	1421	TRANSMITTED TO GOVERNOR				
** 06/02/77	27	1670	LAW WITHOUT APPROVAL-CH0093, EFF 09/09/77				

HR 274 AN ACT REPEALING THE ALASKA SALARY COMMISSION; AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSORS: MALONE

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
** 02/25/77	01	0394	FIRST READING -- COMMITTEE REPORTS JUDICIARY FINANCE RULES				

HR 275 AN ACT RELATING TO COMPENSATION OF EXECUTIVE OFFICERS AND MEMBERS OF CERTAIN BOARDS AND COMMISSIONS OF THE STATE; AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSORS: MALONE

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
** 02/25/77	01	0394	FIRST READING -- COMMITTEE REPORTS JUDICIARY FINANCE RULES				

HCR 1 DIRECTING THE LEGISLATIVE COUNCIL TO CONDUCT A STUDY RELATING TO THE EXTENT OF FOREIGN INVESTMENT
IN ALASKA'S FISHERIES

PRIME SPONSORS: RULES

BY REQUEST OF: LEG. CNCL.

<u>DATE</u>	<u>SEQ. NO.</u>	<u>JOURNAL PAGE</u>	<u>HOUSE ACTION</u>	<u>DATE</u>	<u>SEQ. NO.</u>	<u>JOURNAL PAGE</u>	<u>SENATE ACTION</u>
01/29/79	01	0088	FIRST READING -- COMMITTEE REPORTS	03/17/79	08	0532	FIRST READING -- COMMITTEE REPORTS
02/07/79	03	0160	RES -- DP06, DNP01, NR01	04/02/79	09	0691	RES -- DP05, NR01
03/14/79	04	0561	REFERRAL RECOMMENDED TO FINANCE FIN -- DP07, NR03				
03/16/79	06	0618	SECOND READING	** 05/06/79	10	0001	EXPIRED AT END OF FIRST SESSION
03/16/79	07	0618	PASSED BY DIV 30-05-05				
01/29/79	02	0088	INTERIM CMTE ON BOTTMFISH				
03/14/79	05	0561	FISCAL NOTE-HSC SUPPL #27				

HCR 2 APPROVING CERTAIN RECOMMENDATIONS OF THE SALARY COMMISSION

PRIME SPONSORS: STATE AFF.

<u>DATE</u>	<u>SEQ. NO.</u>	<u>JOURNAL PAGE</u>	<u>HOUSE ACTION</u>	<u>DATE</u>	<u>SEQ. NO.</u>	<u>JOURNAL PAGE</u>	<u>SENATE ACTION</u>
02/07/79	01	0162	FIRST READING -- COMMITTEE REPORTS	04/06/79	15	0741	FIRST READING -- COMMITTEE REPORTS
02/14/79	02	0236	S.A. -- DNP01, CS04, NR02				
02/21/79	03	0335	FIN COMM REFERRAL ADDED BY UNAN CONSENT				
02/28/79	04	0408	FIN -- DNP06, CS01, NR02	** 05/06/79	16	0001	EXPIRED AT END OF FIRST SESSION
04/04/79	05	0837	SECOND READING				
04/04/79	06	0837	S.A. CS NOT ADOPTED BY DIV 13-25-02				
04/04/79	07	0837	AM01 NOT ADOPTED BY DIV 12-26-02				
04/04/79	08	0838	PASSED BY DIV 25-13-02				
04/04/79	10	0839	NOTICE OF RECONSIDERATION GIVEN				
04/05/79	11	0856	READ AGAIN SECOND TIME				
04/05/79	12	0856	PASSED ON RECONSIDERATN BY DIV 24-16-00				
04/04/79	09	0838	LEGIS INTENT ADOPTED				
04/05/79	13	0857	LEGIS INTENT ADOPTED				
04/06/79	14	0867	FISCAL NTS-HSE SUPPL #39				

Introduced: 2/7/79
Referred: State Affairs

IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

HOUSE CONCURRENT RESOLUTION NO. 2

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

Approving certain recommendations of
the Salary Commission.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS AS 39.23 establishes the Alaska Salary Commission; and

WHEREAS the Salary Commission is granted the responsibility of conducting an on-going review of compensation and retirement benefits for members of the legislature, the governor and lieutenant governor, commissioners, deputy commissioners and directors of executive departments, members of the Alaska Public Utilities Commission, the Alaska Pipeline Commission, the Alaska Commercial Fisheries Entry Commission, and members of the judiciary; and

WHEREAS the recommendations of the Salary Commission as to compensation become effective, retroactive to January 1, 1979, only if approved by concurrent resolution of the legislature before the end of the first session of the legislature; and

WHEREAS the Salary Commission has submitted its recommendations to the legislature regarding the compensation of the officers covered under AS 39.23 and the legislature has considered them; and

WHEREAS Recommendation Number (1)(A) of the Salary Commission proposes to set the annual salary of the governor of Alaska at \$57,231; and

WHEREAS Recommendation Number (2)(A) of the Salary Commission proposes to set the annual salary of the lieutenant governor of Alaska at \$51,088; and

WHEREAS Recommendation Number (3)(A) of the Salary Commission proposes to set the annual salary of commissioners of principal executive departments at \$51,088; and

1 WHEREAS Recommendation Number (4)(A) proposes to set the annual salary
2 of deputy department commissioners at \$45,762, except that a state employee
3 accepting an appointment as deputy commissioner whose salary exceeds \$45,762
4 shall continue to receive the higher salary; and

5 WHEREAS Recommendation Number (5)(A) proposes that there be no change in
6 the salary level of division directors; the Salary Commission recognizes that
7 promotions from deputy director to director of a division may sometimes
8 necessitate that those receiving a promotion move into a step other than "A"
9 in order to be assured a salary increase; in such cases, that person re-
10 ceiving the promotion should enter at the lowest step necessary to receive a
11 salary increase; and

12 WHEREAS Recommendation Number (5)(B) proposes that the salary progres-
13 sion for directors follow the steps outlined in the state salary schedule in
14 AS 39.27.011 to a maximum of \$50,000 annually; and directors whose salaries
15 exceeded \$50,000 annually on December 31, 1978, remain at that salary without
16 further increases; and

17 WHEREAS Recommendation Number (5)(C) proposes that directors who, as of
18 December 31, 1978, have their salaries frozen shall, as of January 1, 1979,
19 be placed within the state salary schedule in AS 39.27.011 at the appropriate
20 range closest to, but not less than, their current salary and their salary
21 progression shall follow the steps outlined in the salary schedule to a
22 maximum of \$50,000 annually; and

23 WHEREAS Recommendation Number (5)(D) of the Salary Commission proposes
24 that a state employee who, without a break in continuous service, is
25 appointed to a position of division director after December 31, 1978, be
26 placed, at the time of appointment, within the state salary schedule in AS
27 39.27.011 at the appropriate range and step closest to, but not less than,
28 his current salary, and his salary progress shall follow the steps outlined
29 in the salary schedule to a maximum of \$50,000 annually; and

1 WHEREAS Recommendation Number (6)(A) proposes that members of the Alaska
2 Public Utilities Commission be paid \$44,353 annually; and

3 WHEREAS Recommendation Number (6)(B) proposes that the chairman of the
4 Alaska Public Utilities Commission be paid an additional \$500 annually,
5 prorated as part of the regular salary; and

6 WHEREAS Recommendation Number (7)(A) proposes that members of the Alaska
7 Commercial Fisheries Entry Commission be paid \$44,353 annually; and

8 WHEREAS Recommendation Number (7)(B) proposes that the chairman of the
9 Alaska Commercial Fisheries Entry Commission be paid an additional \$500
10 annually, prorated as part of the regular salary; and

11 WHEREAS Recommendation Number (8)(A) proposes that members of the Alaska
12 Pipeline Commission be paid \$44,353 annually; and

13 WHEREAS Recommendation Number (8)(B) proposes that the chairman of the
14 Alaska Pipeline Commission be paid an additional \$500 annually, prorated as
15 part of the regular salary; and

16 WHEREAS Recommendation Number (9)(A) of the Salary Commission proposes
17 that the annual salary of supreme court justices be \$57,231; and

18 WHEREAS Recommendation Number (10)(A) of the Salary Commission proposes
19 that the annual salary of the superior court judges be \$52,462; and

20 WHEREAS Recommendation Number (11)(A) of the Salary Commission proposes
21 that the annual salary of district court judges be \$44,353; and

22 WHEREAS Recommendation Number (12)(A) proposes that state legislators be
23 paid an annual salary of \$12,690; and

24 WHEREAS Recommendation Number (12)(B) proposes that the president of the
25 senate and the speaker of the house each receive an additional \$500 per year
26 payable on the opening day of each regular session of the legislature or upon
27 confirmation by the House or Senate after the opening of a regular session of
28 the legislature; and

29 WHEREAS Recommendation Number (12)(D) proposes that legislators receive

1 an annual allowance of \$4,320; and

2 WHEREAS Recommendation Number (12)(F) proposes that legislators receive
3 per diem at the same rate as state employees, including regional variations
4 where applicable; legislators who do not live in their city of residence
5 during regular or special legislative sessions will receive per diem at the
6 short-term rate; interim committee work should be paid at the short-term per
7 diem rate; however, per diem is to be paid at the long-term (lower) rate if
8 legislators are able to stay in their city of residence while on legislative
9 business; and

10 WHEREAS Recommendation Number (12)(G) proposes that each legislator be
11 reimbursed at cost, and upon presentation of proof, for one round trip to his
12 home district during each regular session; and

13 WHEREAS Recommendations Numbers (1)(B), (2)(B), (3)(B), (4)(B), (6)(C),
14 (7)(C), (8)(C), (9)(B), (10)(B), (11)(B), and (12)(B) propose that the
15 salaries of the governor, lieutenant governor, commissioners of principal
16 executive departments, deputy department commissioners, members of the Alaska
17 Public Utilities Commission, Alaska Commercial Fisheries Entry Commission,
18 Alaska Pipeline Commission, supreme court justices, superior court judges,
19 district court judges, and legislators, respectively, be increased, beginning
20 January 1, 1980, by an amount equal to the increase, expressed in terms of
21 percentage, in the United States Department of Labor Consumer Price Index
22 (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to
23 January, 1980; and that any such increase be calculated to the nearest tenth
24 of a percentage point increase in the Consumer Price Index;

25 BE IT RESOLVED that the Alaska State Legislature approves the listed
26 Recommendations in the language and form stated in this resolution.

Original sponsor: State Affairs Committee

Offered: 2/14/79
Referred: Rules

IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE CONCURRENT RESOLUTION NO. 2

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

Approving certain recommendations of
the Salary Commission.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS AS 39.23 establishes the Alaska Salary Commission; and

WHEREAS the Salary Commission is granted the responsibility of conducting an on-going review of compensation and retirement benefits for members of the legislature, the governor and lieutenant governor, commissioners, deputy commissioners and directors of executive departments, members of the Alaska Public Utilities Commission, the Alaska Pipeline Commission, the Alaska Commercial Fisheries Entry Commission, and members of the judiciary; and

WHEREAS the recommendations of the Salary Commission as to compensation become effective, retroactive to January 1, 1979, only if approved by concurrent resolution of the legislature before the end of the first session of the legislature; and

WHEREAS the Salary Commission has submitted its recommendations to the legislature regarding the compensation of the officers covered under AS 39.23 and the legislature has considered them; and

WHEREAS Recommendation Number (1)(A) of the Salary Commission proposes to set the annual salary of the governor of Alaska at \$57,231; and

WHEREAS Recommendation Number (2)(A) of the Salary Commission proposes to set the annual salary of the lieutenant governor of Alaska at \$51,088; and

WHEREAS Recommendation Number (3)(A) of the Salary Commission proposes to set the annual salary of commissioners of principal executive departments at \$51,088; and

1 WHEREAS Recommendation Number (4)(A) proposes to set the annual salary
2 of deputy department commissioners at \$45,762, except that a state employee
3 accepting an appointment as deputy commissioner whose salary exceeds \$45,762
4 shall continue to receive the higher salary; and

5 WHEREAS Recommendation Number (5)(A) proposes that there be no change in
6 the salary level of division directors; and that the entry level of new
7 directors continue to be the "A" step of the salary range at which they are
8 hired; the Salary Commission recognizes that promotions to director of a
9 division may sometimes necessitate that those receiving a promotion move into
10 a step other than "A" in order to be assured a salary increase; in such
11 cases, that person receiving the promotion should enter at the lowest step
12 necessary to receive a salary increase; and

13 WHEREAS Recommendation Number (5)(B) proposes that the salary progres-
14 sion for directors follow the steps outlined in the state salary schedule in
15 AS 39.27.011 to a maximum of \$50,000 annually; and directors whose salaries
16 exceeded \$50,000 annually on December 31, 1978, remain at that salary without
17 further increases; and

18 WHEREAS Recommendation Number (5)(C) proposes that directors who, as of
19 December 31, 1978, are on frozen salary shall, as of January 1, 1979, be
20 placed within the state salary schedule in AS 39.27.011 at the appropriate
21 range closest to, but not less than, their current salary and their salary
22 progression shall follow the steps outlined in the salary schedule to a
23 maximum of \$50,000 annually; and

24 WHEREAS Recommendation Number (5)(D) of the Salary Commission proposes
25 that a state employee who, without a break in continuous service, is appointed
26 to a position of division director after December 31, 1978, be placed, at the
27 time of appointment, within the state salary schedule in AS 39.27.011 at the
28 appropriate range and step closest to, but not less than, his current salary,
29 and his salary progress shall follow the steps outlined in the salary schedule

1 to a maximum of \$50,000 annually; and

2 WHEREAS Recommendation Number (6)(A) proposes that members of the Alaska
3 Public Utilities Commission be paid \$44,353 annually; and

4 WHEREAS Recommendation Number (6)(B) proposes that the chairman of the
5 Alaska Public Utilities Commission be paid an additional \$500 annually,
6 prorated as part of the regular salary; and

7 WHEREAS Recommendation Number (7)(A) proposes that members of the Alaska
8 Commercial Fisheries Entry Commission be paid \$44,353 annually; and

9 WHEREAS Recommendation Number (7)(B) proposes that the chairman of the
10 Alaska Commercial Fisheries Entry Commission be paid an additional \$500
11 annually, prorated as part of the regular salary; and

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13 Pipeline Commission be paid \$44,353 annually; and

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15 Alaska Pipeline Commission be paid an additional \$500 annually, prorated as
16 part of the regular salary; and

17 WHEREAS Recommendation Number (9)(A) of the Salary Commission proposes
18 that the annual salary of supreme court justices be \$57,231; and

19 WHEREAS Recommendation Number (10)(A) of the Salary Commission proposes
20 that the annual salary of the superior court judges be \$52,462; and

21 WHEREAS Recommendation Number (11)(A) of the Salary Commission proposes
22 that the annual salary of district court judges be \$44,353; and

23 WHEREAS Recommendation Number (12)(A) proposes that state legislators be
24 paid an annual salary of \$12,690; and

25 WHEREAS Recommendation Number (12)(B) proposes that the president of the
26 senate and the speaker of the house each receive an additional \$500 per year
27 payable on the opening day of each regular session of the legislature or upon
28 confirmation by the House or Senate after the opening of a regular session of
29 the legislature; and

1 WHEREAS Recommendation Number (12)(D) proposes that legislators receive
2 an annual allowance of \$4,320; and

3 WHEREAS Recommendation Number (12)(F) proposes that legislators receive
4 per diem at the same rate as state employees, including regional variations
5 where applicable; legislators who do not live in their city of residence
6 during regular or special legislative sessions will receive per diem at the
7 short-term rate; interim committee work should be paid at the short-term per
8 diem rate; however, per diem is to be paid at the long-term (lower) rate if
9 legislators are able to stay in their city of residence while on legislative
10 business; and

11 WHEREAS Recommendations Numbers (1)(B), (2)(B), (3)(B), (4)(B), (6)(C),
12 (7)(C), (8)(C), (9)(B), (10)(B), (11)(B), and (12)(B) propose that the
13 salaries of the governor, lieutenant governor, commissioners of principal
14 executive departments, deputy department commissioners, members of the Alaska
15 Public Utilities Commission, Alaska Commercial Fisheries Entry Commission,
16 Alaska Pipeline Commission, supreme court justices, superior court judges,
17 district court judges, and legislators, respectively, be increased, beginning
18 January 1, 1980, by an amount equal to the increase, expressed in terms of
19 percentage, in the United States Department of Labor Consumer Price Index
20 (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to
21 January, 1980; and that any such increase be calculated to the nearest tenth
22 of a percentage point increase in the Consumer Price Index;

23 BE IT RESOLVED that the Alaska State Legislature approves the listed
24 Recommendations in the language and form stated in this resolution.

HOUSE FINANCE COMMITTEE
Friday, January 30, 1976
8:40 a.m.

All members were present except Rep. Itta. Others present were Alison Farnan, Fiscal Analyst of Legislative Finance; Ron Lind, Deputy Director, Budget & Management; and Kent Dawson, Director, Budget & Management.

PRESENT

The meeting was called to order to discuss HB 661.

HB 661

Rep. Buchholdt asked if community college instructors weren't already under a union and had collective bargaining. Rep. Duncan said that some were covered, but others weren't. Chairman Malone explained that this particular bill was for teachers not covered under collective bargaining.

COMMUNITY
COLLEGE
INSTRUCTORS

The committee discussed SB 499. Alison Farnan, Legislative Finance, said it was basically a general government salary schedule which changes monthly salary figures to yearly figures so that the computation of bi-monthly payments is easier.

SB 499

Rep. Naughton said there was no provision under HB 661 for paying legislature's permanent employees.

Chairman Malone commented that the bill took care of cost of living and salary increases for some employees not covered by collective bargaining. There is a bill in senate which would be, if adopted, enabling legislation for this kind of raise. They are also considering including the permanent staff of the judiciary and legislative branches. A general pay raise would automatically raise legislature again. The senate thinks that might defeat the purpose of the initiative if it is on the ballot.

Chairman Malone told the committee they must make a choice to keep the bill or send it to the senate and let them figure out what the final figures would be.

Copies of the committee substitute for SB 499 were distributed (see file). Chairman Malone said it was confusing to have the bills in different houses.

Chairman Malone asked for comments from Ron Lind, Budget & Management. Mr. Lind said SB 499 was originally a housekeeping measure to change salary figures to yearly figures so that they could be divided for bi-weekly pay. The sections through Section 16 deal with this.

DESCRIPTION
OF SB 499

Mr. Lind continued saying that under Section 16 deputy commissioners would receive an increase, but the new language says that no deputy commissioner can be raised to above the commissioner. Section 17 is for some of the people in the executive branch. Section 19 discusses CPI change and would do the same thing as the general government contract. Section 20 is the section not funded in the appropriation bill. It would take \$890,000 to fund it. It would give the same kind of raise to permanent employees of the legislative branch. The \$890,000 would cover legislative and judicial. The rest of the bill explains calculating and making retroactive portions of the payment. Basically it would give these people the same salary schedule as under the general government contract.

Rep. Duncan asked Mr. Lind if in order to appropriate for SB 499 it would be necessary to increase HB 661 by \$886,000. Mr. Lind confirmed this.

Chairman Malone asked how the figures had been calculated. Mr. Lind replied that the \$1.5 million for the executive branch was calculated in the same way as general government. Actual payroll data was used. The University of Alaska didn't have payroll data, so that is based on budget figures. For the costing on the judiciary and legislative branch the amounts for judges and legislators was subtracted from the total payroll. Executive branch was done in the same way.

Mr. Lind said that because of fluctuations they would prefer that the appropriation be an overall appropriation so that funding could go back and forth.

OVERALL
APPROPRIATION

Chairman Malone asked if the figure for University of Alaska was not broken out. Mr. Lind responded that the bill said not more than that figure.

Rep. Buchholdt asked Mr. Lind if what he was saying was that he didn't think the appropriation should be line budgeted. Mr. Lind said that all of the calculations were based on what happened in the first half of the year. There is no way of knowing growth.

Rep. Cowper asked if it was customary for the governor to introduce an authorization bill in one house and an appropriation bill in the other. Mr. Lind said that originally there had been two bills and one had been pulled out.

Rep. Buchholdt asked how many employees were covered under this bill. Mr. Lind replied that he didn't have exact figures and would have to get them.

NUMBER OF
EMPLOYEES
AFFECTED

Rep. Cowper said he thought getting those figures might be a futile exercise as long as the other bill is in the senate. Perhaps this bill should be put aside until something comes out of there. Rep. Cowper said that he would like to know the positions that would be affected.

Chairman Malone asked if Mr. Lind could supply the committee with the information Rep. Cowper was asking for for the University of Alaska. Mr. Lind said everyone would be covered with the same increase, but he would have to find out what the people are paid now.

Chairman Malone said that the committee could wait for enabling legislation from the senate which ought to go through the house anyway or they could forward the appropriation for consideration there. It would be nice to get the two bills together in one place at one time to avoid slips.

Chairman Malone asked for questions. Then he said that if there was no recommendation the committee would wait for a little while. He asked Mr. Lind for the requested information so that the committee could make its own memorandum on what amount should be contained in the appropriation.

Mr. Lind and Mr. Dawson left the meeting at 9:17.

Chairman Malone said that it would be nice to have both bills in one place so that all of the appropriations could be included in one bill.

The committee discussed plans for presentations at the upcoming budget meetings.

The meeting was adjourned at 9:25.

Tape # H76-7

Beg. 1846

End 2461

On SB 726 Rep. Buchholdt said the Resources Committee had reported it out majority do pass. Rep. Gruening moved and asked unanimous consent to report out CSSB 726. There was no objection, so the motion was adopted. The committee report was circulated and CSSB 726 was reported out with a "do pass" recommendation.

SB 726

CSSB 726
REPORTED OUT
DO PASS REC

The next topic was SB 474 am. Palmer McCarter testified on the bill and Rep. Buchholdt suggested reporting the bill out. Rep. Cowper moved and asked unanimous consent to amend the bill to repeal the business license tax in 1979 and further provide that money received by various communities and municipalities which was due on January 1, 1978, be appropriated to the communities in 1979 and subsequent years. He said Billy Berrier had the exact language. Rep. Buchholdt suggested Rep. Cowper draw up the amendment for the committee to view. Rep. Cowper suggested voting on the concept. Rep. Duncan said he saw no harm in having a CS drawn up. Rep. Miller said he could have a CS drawn up for tomorrow morning. Rep. Cotton suggested including another amendment increasing the money to hospitals. Rep. Gruening moved to include the business license tax amendment and the hospital amendment in a proposed Finance Committee Substitute. Rep. Miller outlined the hospital amendment. He said that in the Free Conference on the Budget there would have to be a line item on hospitals to keep it all from going into one pot. There was no objection to having a CS drafted, so it will be drafted for the committee's consideration.

SB 474am

CS TO BE DRAWN
UP WITH
COWPER AND
COTTON AMEND-
MENTS

There was a brief recess and the committee took up SB 499 am with Reps. Buchholdt, Itta, and Guy present. Rick Svobody was present to explain the bill. He said SB 404 was referred and would be on the ballot August 24. If the people vote to repeal that bill it will go to what law was before last year's bill. In SB 499 the decision was made to leave the referendum alone and let the people vote on it. This bill creates a salary commission to set salaries of legislators, judges, commissioners, and deputy commissioners. (Reps. Gruening and Duncan joined the meeting at 4:30).

SB 499am

Mr. Svobody said the bill was complicated and it would be easier if SB 404 were just repealed and it would be possible to start over. On judges salaries he said that once they are raised they cannot be lowered. (Rep. Malone joined the meeting at 5:00).

Rep. Malone suggested that the committee wait to hear from Rep. Gardiner before acting on this bill.

There was no further business to come before the committee, so the meeting was adjourned at 5:05.

replied that based on '76 it's in the neighborhood of \$55-60,000. The exact amount is hard to say.

SB 753

Chairman Malone asked the wishes of the committee. Rep. Duncan moved to report out HCS for SB 753 (Finance). Rep. Haugen objected to adding HB 290. It would get a better rate of interest going by itself. It seems a little rich. Rep. Duncan said he felt the concept is needed. Possibly the fiscal notes could be looked at separately, but the concept needs to be enacted this session. Rep. Haugen agreed but said they don't need the extra money in personal services. Rep. Duncan suggested reworking the fiscal note, and Rep. Haugen agreed. Rep. Duncan suggested leaving the travel and contractual as it was listed but deleting the \$23,500 for personal services. Rep. Buchholdt suggested continuing with the \$5,900 that was included for a part-time employee to administer the program. Chairman Malone said they probably could manage the program at least starting up at the limit placed in the legislation with a half-time instead of a full-time person. If we put in \$11,000 for a half-time position that would bring it to \$18,000 for the first year of the program which is the approximate earnings rate on loans if all the money was out. Rep. Buchholdt moved to incorporate the amendment to the fiscal note so that the amount would be \$18,000. She said she would like to have the loan program self-generating to pay for the salary of the person running it. Chairman Malone said the motion was to adopt the main motion to report the bill out with a revised fiscal note for the program providing a half-time position for this function instead of a full-time person. There was no objection, so the motion was adopted. The committee report was circulated and HCS for SB 753 was reported out with a "do pass" recommendation. The bill will be sent to the Chief Clerk upon receipt of the CS from Legislative Affairs.

HCS for
SF 753(Finance)
REPORTED OUT
DO PASS REC

FISCAL NOTE
TO BE REVISED

Rep. Gardiner was present to speak on CSSB 499. He said this version of the bill left it to the voters to vote on the referendum. The bill is structured so that it goes into effect regardless of what happens in the primary election. The salary commission goes into effect 30 days after the bill goes into effect. They have responsibilities for making recommendations for next session. Nothing in the existing statutes will be affected until their recommendations have gone to the legislature and become effective.

CSSB 499

5-21-76

Rep. Gardiner said that constitutionally salaries and retirement of judges could not be lowered, but state employee's can. There was a 34-page opinion on this which wasn't really decisive. At the end they said the cleanest way is to repeal everything and then re-enact it. Our committee didn't want to do that.

CSSB 499

Rep. Gardiner continued, saying that the legislature doesn't have the power to amend the recommendations of the salary commission. This is modeled after the local boundary commission. The reason for this whole thing is that legislator's salaries have become too much of a political issue. This way a board will make a recommendation and the legislature will no longer be in a "conflict of interest" situation. Rep. Haugen said he felt the idea was long overdue.

Chairman Malone recessed the meeting at 10:25 to go to the floor session.

HOUSE FINANCE COMMITTEE
Friday, May 21, 1976
2:45 p.m.

In the absence of the chairman, vice chairman Buchholdt called the meeting to order with Duncan, Gruening Cowper and Guy forming the quorum. Milt Barker, budget analyst also was present as were Gene Lawn, administrative officer for child support and Rich Burnham of the Attorney General's office, as well as Don Clocksin from Alaska Legal Aid services.

PRESENT

First order of business was House committee substitute for SB 499 am for which Gruening moved and asked unanimous consent to report out. Duncan objected for the purpose for holding it over for an updated fiscal note. Duncan sounded an assumption it will be the commissioner's per diem and travel and removed his objection. The vote was majority do pass.

SB 499 am
DO PASS

Next item of business was HCS for sponsor substitute for SB 659 am. Here begins Tape #71.

HCS SB 659am

Susan Green of the Governor's office, Commissioner Williamson, H&SS and members of his staff deputy commissioners McGinnis and Lloyd were present for testimony.

Williamson had presented the proposed amendments to federal regulators in Seattle, Region 10, and he stated their opinion that federal funding might be in jeopardy with that piece of legislation. There could be a five percent loss of an annual amount of \$350,000 and other loss of full aid funding program to total six million dollars annually.

CHILD SUPPORT
ENFORCEMENT

Cowper immediately registered objection to a ballooning of 35 people where once it took 7 to do the job in the program.

DISCUSSION
PERSONAL SERVICES
INCREASE

McGinnis said Mr. Snowden gave in his Saturday testimony ten or eleven fulltime equivalencies, four from the Dept. of Law, (if those figures are accurate), seven authorized in the Dept. of Health & Social Services,

The remainder of the meeting was not tape recorded.

Rip Andrews was present at the meeting and spoke to the committee briefly in support of the CS for SB 335, which would provide for a one-day fishing license at \$5. Rep. Buchholdt thanked him for speaking to the committee.

CS for SB 335

Rep. Buchholdt said there was a fiscal note now available on SB 499am. Jay Hogan, Director of Legislative Finance, had expressed concern that materials weren't provided in this bill. He had told Rep. Buchholdt that a figure of \$25,000 should be added so that comparative figures on legislative salaries could be sought. Rep. Gruening objected to the addition because comparative figures are already available through the Department of Commerce and the Department of Labor. Rep Buchholdt said she didn't feel any more money should be put in this project. Rep. Duncan pointed out that it would be going to Free Conference, and the fiscal note could be revised there if it was deemed necessary.

SB 499am

There was no further business to come before the committee, so the meeting was adjourned at 12:00.

Tape H76-72
Beg. 0000
Stopped at 1302.

Senator Ray next brought up COMMITTEE SUBSTITUTE FOR SENATE BILL NO. CSSB 499 499 (Method of compensating state officers and employees).

Senator Ray moved to amend the bill on page 2, line 14 by changing "S14,720" to read "S12,700". The motion failed 3:4. Amendment

Senator Poland suggested they amend page 2, line 23 by upping the Lt. Governor's salary to equal that of the Commissioner's.

Senator Sackett agreed, and moved that on page 2, line 23 they change "\$44,000" to read "\$48,500". The motion carried. Motion

Senator Ray renewed his motion to amend page 2, line 23. This time the motion carried 4:2. Motion

Senator Poland moved to put the bill as amended out with individual recommendations. The motion carried, and the bill went out with a majority voting "Do Pass". Motion

Senator Sackett asked to bring up SENATE BILL NO. 586 (Relating to alcoholic treatment facilities) because it was the companion bill to the bond bill SB 585. It allows the municipalities to accept the facilities after they are built. There was no objection. SB 586

Senator Sackett moved to put SB 586 out with individual recommendations. The motion carried, and the bill went out with a majority voting "Do Pass". Motion

The meeting adjourned at 9:35 a.m. ADJOURN

Original sponsors: Josephson, V.Fischer,
Kelly and Sturgulewski

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 161 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to compensation of elected offi-
cials; and providing for an effective date."

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

8 * Section 1. AS 24.10.100 is repealed and reenacted to read:

9 Sec. 24.10.100. COMPENSATION OF LEGISLATORS. The Commission on
10 Compensation of Elected Officials shall set the compensation of legis-
11 lators.

12 * Sec. 2. AS 24.10.130 is amended to read:

13 Sec. 24.10.130. LEGISLATIVE TRANSPORTATION. A member of the
14 legislature is entitled to reimbursement for the expense of moving
15 between the member's place of residence and the capital city for the
16 purpose of attending a regular session of the legislature. Reimburse-
17 ment shall be as provided by order of the Commission on Compensation
18 of Elected Officials [REGULATIONS COVERING STATE EMPLOYEES ADOPTED BY
19 THE COMMISSIONER OF ADMINISTRATION UNDER AS 39.20.160].

20 * Sec. 3. AS 39.20.010 is repealed and reenacted to read:

21 Sec. 39.20.010. COMPENSATION OF THE GOVERNOR. The Commission on
22 Compensation of Elected Officials shall set the compensation of the
23 governor.

24 * Sec. 4. AS 39.20.030 is repealed and reenacted to read:

25 Sec. 39.20.030. COMPENSATION OF LIEUTENANT GOVERNOR. The Com-
26 mission on Compensation of Elected Officials shall set the compensa-
27 tion of the lieutenant governor.

28 * Sec. 5. AS 39.20.050 is amended to read:

1 Sec. 39.20.050. EXCLUSIVE COMPENSATION. Retirement benefits
2 established by law and the [THE] compensation fixed by the Commission
3 on Compensation of Elected Officials [LAW] for the governor and lieu-
4 tenant governor are full compensation [IS IN FULL] for all services
5 rendered by each of them in any official capacity or employment what-
6 soever during their respective terms of office, and shall be paid
7 throughout their respective terms of office unless the office becomes
8 vacant.

9 * Sec. 6. In making initial appointments to the Commission on Compen-
10 sation of Elected Officials, the governor shall appoint one member to a
11 term of two years, one member to a term of three years, one member to a
12 term of four years, one member to a term of five years, and one member to a
13 term of six years.

14 * Sec. 7. The compensation of the governor, lieutenant governor, and
15 legislators established by law on the day before the effective date of this
16 Act shall remain in effect until the Commission on Compensation of Elected
17 Officials has issued an order setting the compensation.

18 * Sec. 8. This Act takes effect on the effective date of an amendment
19 to the Constitution of the State of Alaska creating a commission on compen-
20 sation of elected officials.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB161
 Title: Commission on Compensation of Elected Officials
 Sponsor: Josephson
 Requestor: _____
 Date of Request: March 1, 1985

FISCAL DETAIL

Agency Affected: Office of the Governor
 Program Category Affected: Executive Operations
 BRU, Program or Subprogram(s) Affected: Executive Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		8.9		9.7		
400 SUPPLIES		7.1		7.8		
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		16.0		17.5		

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

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		16.0		17.5		
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Assumptions: 1) One Commissioner appointed from Juneau, Fairbanks and Nome, 2 from Anchorage. 2) Two meetings held in Anchorage, 1 each in Nome, Juneau and Fairbanks.

Prepared By: Michael A. Nizich Phone: 465-3616
 Division: Administrative Services Date: 3/5/85

Approved by Commissioner: Sandra J. Herman Date: 3/6/85
 Agency: Office of the Governor

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Contractual Services:

Advertising - 3 times in local paper for each meeting
@ \$130/day (5 1/4" x 5") = \$1950.00

Room rentals - 1 @ \$75/day = \$ 75.00
2 @ \$100/day = \$200.00
3 @ \$150/day = \$450.00

\$725.00

Secretarial and transcription services: \$4340.00

Secretarial = \$40/hour x 46 hours (2 4-hour mtgs
+ 4 8-hour mtgs
+ 1 hour each for
set up and take
down) = \$1840.00

Transcription = \$5/page x 500 = \$2500.00

FY 88 estimated using 10% inflation factor.

ALASKA STATE SENATE

JOE P. JOSEPHSON
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WHILE IN JUNEAU
POUCH V
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COMMITTEES
BUDGET & AUDIT
HEALTH, EDUCATION & SOCIAL SERVICES
RULES
TRANSPORTATION
SENATE CHAIR, ANCHORAGE CAUCUS

OFFICE OF MINORITY WHIP

February 13, 1985

Dear Colleague:

On Monday, February 18, I will introduce a bill and a resolution to establish, by constitutional amendment, the Commission on Compensation of Elected Officials.

I invite you to co-sponsor these measures. A copy of each is enclosed.

The measures have the following objectives:

First, they will take legislators out of the unseemly and misunderstood business of setting our own salaries. The measures are based on a very successful feature of the Anchorage Municipal Charter, where assembly and mayoralty salaries are set by the Commission on Salaries and Emoluments.

Second, they assure a public hearing process, in each judicial district, at least every other year on the issue of gubernatorial and legislative salary.

Third, they eliminate the twin dangers of the existing system -- on the one hand, the possibility of legislative decisions that might be selfish or self-serving; on the other hand, the possibility of attacks that are demagogical and politically motivated upon reasonable decisions regarding salary.

Under the measures, the proposed Commission members would be appointed for six-year terms and would not be removable during their terms. Thus, the Commission would have independence, once appointed, from the Governor and the Legislature.

As I see it, the enactment of these measures would not make moot the pending voter initiative proposition scheduled to be on the ballot in 1986. A decision by the voters to repeal the pay increase adopted in 1983 would be compatible with approval of the proposed constitutional amendment.

February 13, 1985
Page Two

Such a decision, would be one of the factors which the members of the Commission could take into account in setting legislative salary. A decision by the voters not to adopt the initiative would also be compatible with passage of the constitutional amendment. One result would be to reduce public passions about the pay repeal initiative by offering a different, depoliticized method of setting salaries, hitherto an insoluble problem. Energies and attention can then be focused on other questions and the critical races that will be on the ballot.

Should you wish to co-sponsor these measures, please advise my office at 4525 this week. If you do not wish to co-sponsor, please give your support, or at least your open-minded consideration, as they proceed through the committee system. I hope you will join me in this effort.

Sincerely,



Joe P. Josephson

JPJ:rak
Enclosures

Front Page - Bottom

Legislative raise repeal unlikely soon

By ANN CONY
Daily News reporter

JUNEAU — Key members of the state legislature acknowledged Wednesday that it appears lawmakers are not likely to repeal their 1983 pay raise this session.

Many successful candidates for the legislature campaigned last fall against the pay raise, and several bills have been introduced to scale back legislative pay to its previous level.

The House majority coalition's stated goals for this session include "addressing the legislative pay raise," but apparently that doesn't necessarily mean repealing it.

"In the election of '86, the question (of repealing the pay raise) is going to be on the ballot," noted House Speaker Ben Grussendorf, D-Sitka. "Since it's going to be on the ballot, there's no rush to deal with it this session."

Grussendorf said the legislature has more pressing business to tackle, such as deciding where to cut the governor's proposed budget and how to resolve problems with the Alaska Longevity Bonus program.

See Back Page, REPEAL

Daily News
2/21/85 (>

Repeal of legislators' 1983 pay raise not likely during this session, key lawmakers say

Continued from Page A-1

"There are a lot more important things coming up right now," agreed Sen. Mitch Abood, R-Anchorage. "Given the problems we have now and the 120-day session limit, it doesn't seem likely we'll get something substantial done on that (repeal) bill."

Abood is chairman of the Senate State Affairs Committee, which has before it three bills aimed at repealing the pay raise and establishing a commission to deal with legislative salaries.

Before the pay hike, lawmakers drew an annual salary of \$20,000 and were paid an \$80-a-day expense allowance during the session. They also received \$4,000 a year for miscellaneous office expenses, but were not required to show receipts for those expenses.

In 1983, lawmakers more than doubled their salary, to \$46,800, and kept the additional \$4,000 office allowance. They abolished the \$80-a-day expense allowance and cited that as part of the justification for the pay increase.

But under the new system, lawmakers' pensions, which are based on the salary and office allowance, benefited.

For most lawmakers, pension payments are calculated on the highest average salary collected in any three consecutive years as a public employee.

If the pay raise were repealed this year, the old salary would bring down the high average of the last two years.

Abood and Grussendorf said it's likely the legislature will work on the pay raise, and the salary commission idea, in the interim between

this session and next.

Senate Majority Leader Rick Halford said he hasn't paid much attention to bills aimed at repealing the pay raise but acknowledged that he would know about it if passage were a high priority for the Senate majority coalition this session.

Senate President Don Bennett, R-Fairbanks, said he didn't have time Wednesday to discuss repeal of the pay raise.

Rep. Katie Hurley, D-Wasilla, is the prime sponsor of a House bill to roll back the pay hike. Her bill and similar ones are in the House State Affairs Committee, which she chairs.

Hurley, who campaigned against the pay raise, said she wants to see the raise repealed this session, in part to assure the question can be

removed from the 1986 ballot.

"If it's on the ballot in '86 it becomes a big campaign issue again when we ought to be talking about more substantive issues," she said.

Hurley estimated there's a 50-50 chance of the repeal passing the House this session but conceded that repeal is not likely to go anywhere without the support of the leadership in both houses of the legislature.

Grussendorf, as part of his duties as Speaker of the House, has referred the repeal and related bills to four committees, instead of the usual three, which will make it more difficult for those bills to reach the House floor for a vote this session.

State Affairs is the first of the four committees, and one of the next stops will be the House Judiciary Committee.

Judiciary Chairman Mike Miller, D-Juneau, proposed the pay raise in 1983.

Grussendorf and Abood defended the pay raise, although Grussendorf said he voted against it in 1983 and Abood said he'd vote to repeal it if that's what his constituents demand.

Although the framers of the state constitution envisioned a part-time citizen legislature, the reality of handling billions of dollars a year in oil revenues and the problems accompanying state population growth have turned the job into year-round work, they said.

"You can't say to your constituents five months before the session starts, 'Hey, don't bother me now,'" Grussendorf said.

"There's a part of the public that wants to see the pay

raise repealed," Abood said. "I don't believe they understand what the situation

... They want us to be part-time legislators and deal with full-time problems. But it can't be done. The public has got to understand they can't have their cake and eat it too."

If repeal of the pay raise is put off until next year, Alaskans might see a virtual replay of events from the mid 1970s.

Lawmakers invoked public indignation in 1975, when they raised their salaries from \$9,000 to \$14,700.

In 1976, the legislature established a salary commission, and in the fall of that year voters took away the 1975 pay raise with a ballot initiative.

The salary commission was abolished in 1980.

P.O. Box 120449 Anchorage 99521

Josephson urges salary commission

By ROBB FULCHER
United Press International

JUNEAU, Alaska — A state senator told lawmakers Thursday they should not set their own salaries as they did in a controversial pay raise voted themselves in 1983.

Sen. Joe Josephson, D-Anchorage, told the Senate State Affairs Committee that a separate commission should be established to set legislative pay and take a sticky issue out of the hands of lawmakers.

"In my opinion, that would lead to greater respect for the legislature, greater confidence in the legislative branch, and remove from our agenda an issue we cannot handle comfortably," Josephson said.

There are several bills before the legislature that would repeal the 1983 pay raise that made Alaska's lawmakers the third-highest paid in the nation.

The salary increase, passed in the waning days of the 1983 session, set pay at \$46,800 for the state's 60 legislators.

Before the increase, Alaska lawmakers earned \$20,000 a

year plus an \$80 a day allowance for expenses, which placed each lawmaker's pay in the neighborhood of \$29,600.

An initiative that would repeal the pay raise has been placed on the 1986 general election ballot, in case legislators do not repeal the increase on their own.

Josephson has introduced a bill, Senate Bill 161, which would set up a commission to pay elected state officials.

Josephson told the Senate committee that he helped establish the Anchorage Salaries and Emoluments Commission in 1975, and the commission was well received by Anchorage residents.

"That has been part of the Anchorage charter for 10 years now and there has never been public outcry. In Anchorage, there is public confidence that those salaries, of the mayor and assembly, are fairly set," Josephson said.

Josephson told his colleagues that they would have trouble as long as they are the ones responsible for setting their own pay.

Anchorage Daily News
February 20, 1985

Deciding fair pay

Some of the furor over the 1983 legislative pay raise has subsided lately, but that shouldn't keep the legislature from taking up a good idea introduced this week by Sen. Joe Josephson: a Commission on Compensation of Elected Officials. This is a solution, and not simply a battle cry.

People have argued endlessly over the role and worth of elected officials ever since the legislature more than doubled its own salary and benefits — while ending per diem payments — in 1983. Part of the furor arose because political opponents could easily take advantage of the issue; part of it had to do with the indecorous performance of the legislature that approved the raise; part of it had to do with the fact that legislators were voting *themselves* more money; and part of it had to do with some folks' general antipathy to government altogether.

But none of those, really, are good reasons for setting legislative pay. A salary commission for elected state officials could more easily focus on the value and fair compensation for legislative service. It also could assure public hearings on the question, end charges of self-interest by legislators, and lessen public passions about the whole matter by taking it out of legislative politics.

This, surely, is an idea worth considering.