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Memorandum

Alaska Court System

TO: Arthur H. Snowden, II
Administrative Director

DATE : March 5, 1986

FROM:

Karla L. Forsythe
Staff Counsel

SUBJECT: SB 412 - Analysis

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

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

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

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

KF/k1

POSITION PAPER

SB 412

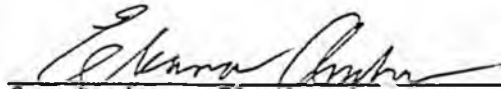
SB 412 provides an alternate appeal although the impact on the State is virtually the same. Additionally, the bill brings the legislative and judicial branches under the caveat of deferral to that agency or branch of government if they have their own mandatory claims and appeal procedure.

Risk Management's position on SB 412 is neutral as its passage will not materially impact our operations.



Donald J. Hitchcock
Director
Division of Risk Management
Department of Administration

2-26-86
Date



Commissioner Eleanor Andrews
Department of Administration

2/26/86
Date

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/24/86

REQUEST
Bill/Resolution No.: SB 412
Title: An act relating to claims
against the State.

FISCAL DETAIL
Agency Affected: Administration
BRU: _____

Sponsor: Jan Faiks
Requestor: _____
Date of Request: 2/21/86

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

Prepared By: Don Hitchcock
Division: Risk Management

Phone: 465-2180
Date: 2/24/86

Approved by Commissioner: Eleanor Andrews
Agency: Department of Administration

Date: 2/26/86

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
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Office of Management and Budget
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POSITION PAPER

SB 412

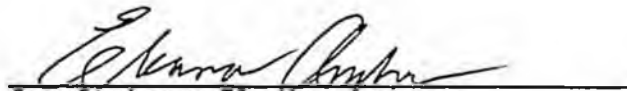
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ANALYSIS: Attach a separate page if necessary

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