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# Alaska State Legislature

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## Senate

February 25, 1986

### MEMORANDUM

TO: Senator Mitch Abood, Chairman  
Senate State Affairs Committee

FROM: Senator Jan Faiks

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

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

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

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

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

OUT OF SESSION

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

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

Currently, AS 44.77.070 exempts from this system any department in the executive branch which has adopted its own mandatory claims and appeal procedure.

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