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HOUSE COMMITTEE REPORT

(7)

Date referred: 4/3/87

FURTHER REFERRALS: Judiciary

DATE: 4-15-87

The State Affairs Committee has considered SB 91

"An Act limiting liability for activities of the Alaska National Guard."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published 1-29-87
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Cliff Davidson

Terry Martin

More for the
(Derek Wiley) NO REC

Jim Walker

 Chairman's signature

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

SB91

2

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to liability immunity of the state, its employees and agents, and members of the Alaska National Guard.

While training or on duty under federal mandate, the state national guards are performing a United States Government activity. Nevertheless, there have been occasions in which states, rather than the United States, have been exposed to tort liability for injuries or damage resulting from federally mandated guard activities.

In 1981, Congress amended 28 U.S.C. sec. 2671 by adding to the definition of "employees of the government" members of the National Guard training or on duty pursuant to federal order under 32 U.S.C. The effect of this amendment was to clarify that the United States considers the Guard as a federal function during 32 U.S.C. activities and that claims for injuries resulting from such activities could be pursued under the Federal Tort Claims Act, 28 U.S.C. sec. 2671 et seq. In spite of this change in the law, there are rare occasions when the state remedy is preferred by an injured third party who consequently will file a claim for damages in state court on the basis of state law. This bill will prevent suits of this nature, and assure that persons injured or property damaged as a result of federally mandated and controlled Guard activities will be required to seek damages from the United States Government. Existing worker's compensation coverage of guardsmen will not be affected by this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper".

Steve Cowper
Governor

No 196

H/B

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

3

REQUEST _____

Bill Version: SB 91
Publish Date: 1/29/87

Revision Date: _____
Title: An act limiting liabilities for activities of the Alaska National Guard
Sponsor: Rules Committee
Requestor: Governor Cowser

Agency Affected: Dept. of Military & Veterans Affairs
BRU: Alaska National Guard
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

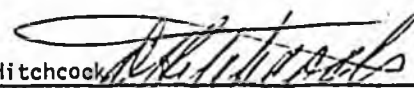
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
TOTAL	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)


POSITIONS:

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


ANALYSIS: Attach a separate page if necessary

The fiscal benefit is difficult to project because the State insurance deductible varies, also this bill will only affect future claims. There will, however, be savings in claims defense costs.

Prepared By: Donald J. Hitchcock  Phone: 465-2180
Division: Risk Management Date: February 26, 1987

Approved by Commissioner: Garrey Peska  Date: 3/2/87
Agency: Department of Administration

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary


LEGISLATIVE FINANCE

No 12

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

4

REQUEST SB 91
Bill/Resolution No. : LL#773-87-0016
Title : Civil Liability for National Guard activities.
Sponsor : Rules Committee
Requestor : Governor
Date of Request : _____

FISCAL DETAIL
Agency Affected : Military & Veterans Affairs
BRU : Alaska National Guard
Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

This bill would have no known fiscal impact.

Prepared by: Richard H. Rasmussen
Division: Administrative & Support Services Division
Approved by Commissioner for MG Edward G. Pagano
Agency: Dept. of Military & Veterans Affairs

Phone: 465-4600
Date: 10/07/86
Date: 10/07/86

- Distribution (by Agency preparing fiscal note):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
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