

S B

378

Position Paper

SB 378

For an Act entitled: "An Act making a special appropriation to the Department of Law for staff to address legal issues surrounding AIDS and other public health matters; and providing for an effective date."

This legislation will fund staff in the Department of Law to address legal issues surrounding AIDS and other public health matters.

Background

As the acquired immune deficiency syndrome (AIDS) problem has grown, legal issues regarding patient record confidentiality, access to treatment, and protection of health care providers have become extremely complex. With the increased federal and state funding to address the disease, Department of Health and Social Services staff are making program expansions that result in greater involvement with the ethical and legal issues surrounding this disease.

In order to avoid legal entanglements that would adversely impact disease prevention activities, additional legal expertise in the Department of Law is necessary. This enhanced legal capacity would also provide the groundwork for responses to any similar public health issue that might arise in the future.

Position

The Department of Health and Social Services supports the contribution that SB 378 will make to the solution of the AIDS problem in Alaska.

Recommended by:

Elizabeth Ward
Elizabeth Ward, M.N.
Director
Division of Public Health

Date:

February 8, 1988

Approved by:

Blanche Beumel
Myra M. Munson
Commissioner
Department of Health and
Social Services

FISCAL NOTE

REQUEST:

Revision Date: 1/28/88
Title: An Act making a special appropriation to . . .
Sponsor: _____
Requestor: _____

Agency Affected: Health & Social Services
BRU: State Health Services
Components: AIDS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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)

The enactment of SB 378 would have no direct fiscal impact on the Department of Health and Social Services.

Prepared by: Elizabeth Ward, Director *Elizabeth Ward* Phone: 465-3090
Division: Public Health Date: 2-8-88

Approved by Commissioner: *Burke Brune, Acting* Date: 2/12/88
Agency: Department of Health & Social Services

Distribution (by preparer):

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

Alaska State Legislature

SENATOR PAUL FISCHER, Chairman
SENATOR JOE JOSEPHSON, Vice Chairman
SENATOR LLOYD JONES
SENATOR JAY KERTULLA
SENATOR RICK HALFORD



P. O. BOX V
ROOM 508
STATE CAPITOL
(907) 465-3762

Senate Committee on Health, Education and Social Services

INTENT LETTER

CS FOR SB 378

It is the intent of the Senate Health, Education and Social Services Committee by recommending do pass SB 378, that the Department of Law hire an Attorney II, range 19 in Juneau. It is also the intent of the HESS Committee to request that the Department use existing equipment as opposed to the purchase of new equipment.

Explanation of reduction in the appropriation for SB 378

Original App. 92,400.00

Difference in salary and benefits
between an Attorney IV and an
Attorney II 19,590.84

Exact Dollar Difference 72,809.16

Total Current Appropriation 72,800.00

above rounded to the nearest
100.00

ATTORNEY I	Range 16	2,715.00/mo*
ATTORNEY II	Range 19	3,353.00/mo*
ATTORNEY III	Range 22	4,095.00/mo*
ATTORNEY IV	Range 24	4,687.00/mo*
ATTORNEY V	Range 25	5,021.00/mo*

*ABOVE DOES NOT INCLUDE BENEFITS AT APP. 31% OF BASE SALARY

1986

R01-ACBD-0010

SALARY SCHEDULE

STATE OF ALASKA

SCHEDULE A

BASE SCHEDULE

BARGAINING UNIT - (X) PARTIALLY EXEMPT

MONTHLY - HOURLY 07/16/85

RANGE NO.	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	STEP H	STEP I	STEP J	STEP K	STEP L	STEP M	RANGE NO.

05 MONTHLY 37.5 H/W	1,387.00 8.54	1,425.00 8.77	1,467.00 9.03	1,507.00 9.27	1,552.00 9.55	1,593.00 9.80	1,653.00 10.17	1,715.00 10.55	1,779.00 10.95	1,846.00 11.36				05
06 MONTHLY 37.5 H/W	1,467.00 9.03	1,507.00 9.27	1,552.00 9.55	1,593.00 9.80	1,639.00 10.09	1,687.00 10.38	1,750.00 10.77	1,816.00 11.18	1,884.00 11.59	1,955.00 12.03				06
07 MONTHLY 37.5 H/W	1,552.00 9.55	1,593.00 9.80	1,639.00 10.09	1,687.00 10.38	1,740.00 10.71	1,793.00 11.03	1,860.00 11.45	1,930.00 11.88	2,002.00 12.32	2,077.00 12.78				07
08 MONTHLY 37.5 H/W	1,639.00 10.09	1,687.00 10.38	1,740.00 10.71	1,793.00 11.03	1,845.00 11.35	1,900.00 11.72	1,974.00 12.15	2,048.00 12.60	2,125.00 13.08	2,205.00 13.57				08
09 MONTHLY 37.5 H/W	1,740.00 10.71	1,793.00 11.03	1,845.00 11.35	1,903.00 11.71	1,965.00 12.09	2,020.00 12.43	2,096.00 12.90	2,175.00 13.38	2,257.00 13.89	2,342.00 14.41				09
10 MONTHLY 37.5 H/W	1,845.00 11.35	1,903.00 11.71	1,965.00 12.09	2,020.00 12.43	2,082.00 12.81	2,145.00 13.20	2,225.00 13.69	2,308.00 14.20	2,395.00 14.74	2,485.00 15.29				10
11 MONTHLY 37.5 H/W	1,965.00 12.09	2,020.00 12.43	2,082.00 12.81	2,145.00 13.20	2,217.00 13.64	2,286.00 14.07	2,372.00 14.60	2,461.00 15.14	2,553.00 15.71	2,649.00 16.30				11
12 MONTHLY 37.5 H/W	2,082.00 12.81	2,145.00 13.20	2,217.00 13.64	2,286.00 14.07	2,365.00 14.55	2,445.00 15.05	2,537.00 15.61	2,632.00 16.20	2,731.00 16.81	2,833.00 17.43				12
13 MONTHLY 37.5 H/W	2,217.00 13.64	2,286.00 14.07	2,365.00 14.55	2,445.00 15.05	2,531.00 15.58	2,623.00 16.14	2,721.00 16.74	2,823.00 17.37	2,929.00 18.02	3,039.00 18.70				13
14 MONTHLY 37.5 H/W	2,365.00 14.55	2,445.00 15.05	2,531.00 15.58	2,623.00 16.14	2,715.00 16.71	2,818.00 17.34	2,924.00 17.99	3,034.00 18.67	3,148.00 19.37	3,266.00 20.10				14
15 MONTHLY 37.5 H/W	2,531.00 15.58	2,623.00 16.14	2,715.00 16.71	2,818.00 17.34	2,910.00 17.91	3,020.00 18.58	3,133.00 19.28	3,250.00 20.00	3,372.00 20.75	3,498.00 21.53				15
16 MONTHLY 37.5 H/W	2,715.00 16.71	2,818.00 17.34	2,910.00 17.91	3,020.00 18.58	3,129.00 19.26	3,242.00 19.95	3,364.00 20.70	3,490.00 21.48	3,621.00 22.28	3,757.00 23.12				16
17 MONTHLY 37.5 H/W	2,910.00 17.91	3,020.00 18.58	3,129.00 19.26	3,242.00 19.95	3,353.00 20.63	3,468.00 21.34	3,598.00 22.14	3,733.00 22.97	3,873.00 23.83	4,018.00 24.73				17
18 MONTHLY 37.5 H/W	3,129.00 19.26	3,242.00 19.95	3,353.00 20.63	3,468.00 21.34	3,582.00 22.04	3,717.00 22.87	3,856.00 23.73	4,001.00 24.62	4,151.00 25.54	4,307.00 26.50				18
19 MONTHLY 37.5 H/W	3,353.00 20.63	3,468.00 21.34	3,582.00 22.04	3,717.00 22.87	3,831.00 23.58	3,974.00 24.46	4,123.00 25.37	4,278.00 26.33	4,438.00 27.31	4,604.00 28.33				19
20 MONTHLY 37.5 H/W	3,582.00 22.04	3,717.00 22.87	3,831.00 23.58	3,974.00 24.46	4,095.00 25.20	4,246.00 26.13	4,405.00 27.11	4,570.00 28.12	4,741.00 29.18	4,919.00 30.27				20

2413 → 2413 → 3413 → 5

BA/GAINING UNIT - (X) PARTIALLY EXEMPT

BASE SCHEDULE

MONTHLY - HOURLY 07/16/85

RANGE NO.	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP J	STEP K	STEP L	STEP M	RANGE NO.
21 MONTHLY 37.5 H/W	3,831.00 23.58	3,974.00 24.46	4,095.00 25.20	4,246.00 26.13	4,379.00 26.95	4,537.00 27.92	4,707.00 28.97	4,884.00 30.06	5,067.00 31.18	5,257.00 32.35	21
22 MONTHLY 37.5 H/W	4,095.00 25.20	4,246.00 26.13	4,379.00 26.95	4,537.00 27.92	4,687.00 28.84	4,859.00 29.90	5,041.00 31.02	5,230.00 32.18	5,426.00 33.39	5,629.00 34.64	22
23 MONTHLY 37.5 H/W	4,379.00 26.95	4,537.00 27.92	4,687.00 28.84	4,859.00 29.90	5,021.00 30.90	5,209.00 32.06	5,404.00 33.26	5,607.00 34.50	5,817.00 35.80	6,035.00 37.14	23
24 MONTHLY 37.5 H/W	4,687.00 28.84	4,859.00 29.90	5,021.00 30.90	5,209.00 32.06	5,385.00 33.14	5,568.00 34.26	5,777.00 35.55	5,994.00 36.89	6,219.00 38.27	6,452.00 39.70	24
25 MONTHLY 37.5 H/W	5,021.00 30.90	5,209.00 32.06	5,385.00 33.14	5,568.00 34.26	5,773.00 35.53	5,990.00 36.86	6,215.00 38.25	6,448.00 39.68	6,690.00 41.17	6,941.00 42.71	25
26 MONTHLY 37.5 H/W	5,209.00 32.06	5,385.00 33.14	5,568.00 34.26	5,773.00 35.53	5,990.00 36.86	6,206.00 38.19	6,439.00 39.62	6,680.00 41.11	6,931.00 42.65	7,191.00 44.25	26
27 MONTHLY 37.5 H/W	5,385.00 33.14	5,568.00 34.26	5,773.00 35.53	5,990.00 36.86	6,206.00 38.19	6,442.00 39.64	6,684.00 41.13	6,935.00 42.68	7,195.00 44.28	7,465.00 45.94	27
28 MONTHLY 37.5 H/W	5,568.00 34.26	5,773.00 35.53	5,990.00 36.86	6,206.00 38.19	6,442.00 39.64	6,666.00 41.02	6,916.00 42.56	7,175.00 44.15	7,444.00 45.81	7,723.00 47.53	28
29 MONTHLY 37.5 H/W	5,773.00 35.53	5,990.00 36.86	6,206.00 38.19	6,442.00 39.64	6,666.00 41.02	6,901.00 42.47	7,160.00 44.06	7,429.00 45.72	7,708.00 47.43	7,997.00 49.21	29
30 MONTHLY 37.5 H/W	5,990.00 36.86	6,206.00 38.19	6,442.00 39.64	6,666.00 41.02	6,901.00 42.47	7,144.00 43.96	7,412.00 45.61	7,690.00 47.32	7,978.00 49.10	8,277.00 50.94	30

ATTORNEY I

Definition:

Attorney I positions conduct legal research, fact-finding studies, and litigation proceedings under close supervision of experienced attorneys in an office of the Attorney General (including Chief Prosecutor, Special Prosecution and Appeals, and District Attorneys), the Public Defender, or in any other agency, board, or commission when authorized by the Attorney General.

Definition:

Attorney II positions serve as Assistant Attorneys General, Assistant District Attorneys, Assistant Public Defenders, or in any other agency, board, or commission when authorized by the Attorney General. They conduct the agency's routine legal work under general supervision, and learn to assist in the more difficult cases.

ATTORNEY II

Definition:

Attorney III positions provide legal services of moderate difficulty as an Assistant Attorney General, Assistant District Attorney, Assistant Public Defender, or in any other agency, board, or commission when authorized by the Attorney General.

ATTORNEY III

Definition:

Attorney IV positions render legal services of a difficult nature in a variety of fields of law in an office of the Attorney General (including Chief Prosecutor, Special Prosecutions and Appeals, and District Attorneys), the Public Defender, or in any other agency, board or commission when authorized by the Attorney General.

ATTORNEY IV

Definition:

Attorney V positions perform and supervise a variety of complex and specialized legal work in an office of the Attorney General (including Chief Prosecutor, Special Prosecutions and Appeals, and District Attorneys), the Public Defender, or in any other agency, board or commission when authorized by the Attorney General.

ATTORNEY V

Distinguishing Characteristics:

This is the entry level to professional legal practice. Attorneys I perform legal research/assistance and court proceedings consistent with Alaska Bar Rule 44 (persons are trained in law but are not bar members). Assignments are made to assist other attorneys, to carry out routine matters, and to become familiar with the agency's legal practice. Immediate supervision may be relaxed as experience is gained; however, all work is subject to close review while in progress or on completion. This is an in-training class that may be used for substituting positions which are classified at a higher level.

Distinguishing Characteristics:

This is the initial level of professional law practice following admission to the Alaska State Bar. Attorneys II are assigned to complete routine noncomplex cases or legal problems independently. In such cases/problems, the legal questions or facts are relatively easily resolved in light of well-established or easily determined facts and clearly applicable precedents. Legal sanctions or penalties pursued are relatively minor. Precedents of wider potential impact are rarely involved. Attorneys II also assist more experienced attorneys in more complex cases where considerable research and analysis are needed. Work at this level is typically subject to technical and substantive review. Training and experience are gained in a variety of the agency's work. This class may be used for substituting positions classified at a higher level.

Distinguishing Characteristics:

This is the first experienced level of professional practice. Attorneys III do a variety of work independently where important precedents or policy matters are not involved. They are expected to determine all the technical (factual and procedural) needs of the cases or legal problems assigned. Completed work is typically reviewed for substantive findings and conclusions. Assigned cases or legal problems are often difficult due to lack of clear precedents, or applicable precedents are arguable due to factual complexity or different constructions that could be placed on the facts or laws or precedents involved. Assignments may require development of an extensive factual record.

Distinguishing Characteristics:

This is the typical full working level class. Broad knowledge of legal precedents and trends is required for application to the cases assigned. Attorneys IV provide a variety of legal services and work independently in most cases, and also may assist more senior attorneys with portions of the most complex and exceptional cases of great significance. Attorneys at this level are expected to exercise their own judgment on supervision needed and otherwise to provide complete analysis and response to the problem, subject to review for important policy or precedent effect. Assigned cases or legal problems often involve difficult legal issues (e.g., several and conflicting issues, precedents are lacking or highly arguable) difficult policy issues, or significant potential ramifications. Assignments may also require supervising other attorneys in specific legal matters.

Distinguishing Characteristics:

This is the "expert" or supervisory class. They serve as section chiefs, as District Attorneys or Assistant Public Defenders for moderately active geographic areas, as assistant chiefs in large metropolitan offices, or as experts in highly technical and specialized areas of law. Attorneys V who do not have a regularly assigned subordinate staff also frequently direct the work of other attorneys, e.g., contract attorneys or other agency staff who assist on difficult cases. Assignments performed at this level are often large and either time-consuming or need immediate response, and, therefore, the Attorney V leads a team effort.

Attorneys V work independently except in extraordinary cases. They work almost exclusively on the most difficult cases, for example, where a high order of original and creative legal endeavor is required to obtain a reasonable balance of conflicting interests. Complex factual or policy issues require extensive research, analysis, obtaining and evaluating expert testimony or information in controversial or highly technical areas (scientific, financial, corporate, etc.). Cases typically have substantial impact on large-scale and important activities of state agencies or public or private parties, and cases are often contested by extremely capable legal talent.

Example of Duties:

Conduct legal and factual research related to litigation, legal questions or problems, statutes, regulations, or other matters of the agency's responsibility. Analyze information and develop findings and recommendations.

Assist in preparing briefs, motions, cases, legal advice, opinions, legislation and regulations. Participate in arraignments, pleas, bail hearings, sentencing and in-chambers conferences. Write pleadings and trial memorandums. Prepare witnesses for testimony.

Example of Duties:

Review legislative measures, statutes, regulations, rules and other legal actions, and case histories. Analyze and make recommendations concerning proposed laws and regulations. Assist with drafting to assure constitutionality and absence of conflict with other laws.

Evaluate precedents, legislative intent, and potential effect of recommendations. Prepare pleadings and verify propriety and completion of legal documentation for hearings, suits, trials and other legal proceedings when area of responsibility includes some depth of research in a general area.

Act as defense attorney or prosecuting attorney in average types of misdemeanor trials. Assist in more difficult litigation such as complex regulatory crimes, felonies or appeals.

Examples of Duties:

Draft informal opinions to interpret and apply legislation, regulations or other legal instruments. Assist in drafting formal opinions involving limited legal or policy issues or constitutional problems. Prepare, evaluate, interpret or recommend changes to a variety of legal documents. Perform comprehensive studies of legal questions where development of all background material is required. Perform legal investigations.

Advise and assist State agencies in conducting hearings and conferences and in preparing findings of fact, conclusions of law and decisions. May be designated to serve as counsel to a specialized State agency.

Serve as defense attorney or prosecuting attorney in all types of misdemeanor or class B or C felony trials. Conduct sentence appeals, misdemeanor writ appeals, or less complex felony writ appeals.

May be assigned cases in rural areas.

Example of Duties:

Provide legal advice and prepare formal opinions, legislation, regulations, rules, contracts and a variety of other documents, and present cases that may involve highly technical as well as legal procedural complexity and may have the effect of substantially broadening or restricting activities of an agency or major public or private interests. Negotiate settlements of average difficulty.

Serve as counsel to specialized state agencies. Present analysis, conclusions and advice to agency executives. Explain and defend content of legislation, regulations, etc., before boards, commissions, industry representatives, legislators, concerned public or other groups, where issues or proposed actions may be controversial.

Act as defense attorney or prosecuting attorney for all types of felony cases. Conduct felony appeals. Negotiate settlements or charges of plea. Screen cases to determine appropriate action or assignment in the agency. Routinely represent the agency and present cases in rural areas.

Periodically supervise other attorneys in matters involving particular legal experience.

Example of Duties:

Act as legal expert and perform legal services related to one or more specialized fields of law.

Determine how a variety of legal problems will be dealt with (e.g., formal or informal opinion, litigation, negotiated settlement, etc.) and direct the response.

Draft formal opinions, legislation, regulations and other legal instruments involving complex legal and technical issues.

Responsible for development and presentation of cases in various state and federal courts. Present cases involving complex constitutional problems before the U.S. Supreme Court.

Conduct the most difficult civil litigation. Develop and argue serious Class A felony and unclassified criminal cases and appeals. Obtain and evaluate expert testimony and information in highly specialized, technical and/or controversial areas.

Assign cases and supervise other attorneys. Advise on the selection of legal staff to perform work for the agency. Evaluate work of others.

Knowledge, Skills and Abilities:

Knowledge of general legal principles and practices, administrative and constitutional law, legal procedures, methods of legal research, and rules of evidence.

Ability to gather facts, weigh variables, analyze and make recommendations on legal questions; prepare concise written reports on facts and applicable laws and precedents; establish and maintain cooperative relationships with those contacted in the work.

Knowledge, Skills and Abilities:

Knowledge of general legal principles and their applications, the powers, functions and duties of the Attorney General, District Attorneys or Public Defender; methods and tactics employed in the prosecution and defense of noncomplex legal actions in courts or before administrative agencies; methods and procedures involving judicial review of noncomplex administrative decisions; methods and tactics employed in noncomplex appellate court work. (Specifics depend on agency assignment.)

Ability to prepare briefs, opinions and pleadings in noncomplex legal matters; carry out legal research; analyze legal documents and instruments for clarity and legal sufficiency; assemble, appraise and organize facts and logically, clearly, and concisely present noncomplex evidentiary matters and other materials in accepted oral and written legal forms; work effectively with attorneys, agency personnel and the public.

Knowledge, Skills and Abilities:

Knowledge of general legal principles and their application; the State statutes and their judicial interpretation and precedents; the powers, functions and duties of the Attorney General, District Attorneys or Public Defender; methods and tactics employed in the prosecution and defense of legal actions in courts or before administrative agencies; methods and procedures involving judicial review of administrative decisions; methods and tactics employed in appellate court work. (Depends on agency assignment.)

Ability to prepare briefs, opinions and pleadings; carry out legal research; analyze legal documents and instruments for clarity and legal sufficiency; assemble, appraise and organize facts and to logically, clearly and concisely present evidence and other materials in accepted oral and written legal forms; work effectively with attorneys, agency personnel and the public.

Knowledge, Skills and Abilities:

Considerable knowledge of general legal principles and their application with particular reference to the activities and authority of governmental agencies; the state statutes and their judicial interpretation and precedents; the powers, functions and duties of the Attorney General, District Attorneys or Public Defenders; methods and tactics employed in the prosecution and defense of legal actions in courts or before administrative agencies; methods and procedures involving judicial review of administrative decisions; methods and tactics employed in appellate court work. (Depends on agency assignment.)

Ability to analyze highly complex legal documents for clarity and legal sufficiency; assemble, appraise and organize facts and to logically, clearly and concisely present evidence and other matters in accepted oral and written legal forms; work effectively with attorneys, agency officers and executives, and the public.

Demonstrated skill in the preparation of briefs, opinions and pleadings, and in carrying out legal research of a difficult nature.

Knowledge, Skills and Abilities:

Extensive knowledge of general legal principles and their application with particular reference to the activities and authority of governmental agencies, and of the powers, duties and functions of the Attorney General, District Attorneys or the Public Defender (depends on agency assignment).

Thorough knowledge of state statutes and their judicial interpretation and precedents with extensive knowledge in the specialized field of law; methods and tactics employed in the prosecution and defense of legal actions in courts and in conducting procedures before administrative agencies, both state and federal; methods and tactics employed in appellate court work, both state and federal. Knowledge of principles of personnel supervision.

Ability to analyze the most complex legal documents and instruments for clarity and legal sufficiency; assemble, appraise and organize facts and to logically, clearly and concisely present evidence and other matters in accepted oral and written legal forms; train, supervise, plan, organize and evaluate the work of junior staff attorneys; work effectively with attorneys, agency heads, and the public; carry out legal assignments with minimal supervision.

Skill in the preparation of briefs, opinions and pleadings, and in carrying out legal research of a highly difficult nature.

Minimum Qualifications:

Graduation from an approved school of law.

(This class is partially exempt.)

Minimum Qualifications:

Admission to the Alaska State Bar.

(This class is partially exempt.)

Minimum Qualifications:

Admission to the Alaska State Bar and at least two years of legal experience.

(This class is partially exempt.)

Minimum Qualifications:

Admission to the Alaska State Bar and at least four years of legal practice.

(This class is partially exempt.)

Minimum Qualifications:

Admission to the Alaska State Bar and at least five years of legal practice that includes substantial experience in a specialized area of practice. Supervisory experience is desirable.

(This class is partially exempt.)

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701-4679

P O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
465-3603

March 7, 1988

Honorable Paul Fischer
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Re: SB 378

Dear Senator Fischer:

Thank you for asking the Department of Law to comment on SB 378. This appropriation would allow the Department of Law to add an attorney to our staff. The attorney would be responsible for identifying and dealing with the legal issues which face the state as a result of the AIDS epidemic. This new position will contribute not only to the department's ability to respond to requests for legal assistance from the Department of Health and Social Services but will enhance the department's response to all other agencies in state government who are or will be affected by the unique challenge of the AIDS epidemic.

There are a multitude of legal issues which have arisen in other jurisdictions as well as in Alaska as a result of the growing concern regarding the government's response to AIDS. For instance, decisions which the state makes regarding dealing with its own employees who may be seropositive are concerns which face the state's personnel administrators. Another personnel issue concerns what protection state employees may need if they are employed in positions where they may come into contact with contaminated blood or where they provide care for persons who are or may be seropositive.

The Department of Education also may have questions about what AIDS policies should be mandated in the schools of the state. Likewise, the Departments of Correction and Public Safety will have questions regarding their responsibility for those persons in their custody and to the public as well.

The Department of Health and Social Services would probably serve as the focus for policy decisions and as such will need frequent general counsel advice. Confidentiality, the duty to warn, privacy, quarantine, and informed consent are just a few

Honorable Paul Fischer
Alaska State Senate
Re: SB 378

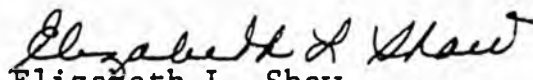
March 7, 1988
Page 2

of the issues of law which have come to the fore regarding AIDS. The Department of Law's current staff, although anxious to provide requested assistance, does not have additional time to research and then to consult with Department of Health and Social Services' staff.

AIDS as a public health matter is one in which the legal system plays an integral part. For better or worse, the legal system provides the forum for the confrontations which will take place in our country and our state. The purpose of an experienced attorney with expertise in this new and growing area of the law will allow the state to avoid simply drifting and awaiting the decisions made in other places. We will be able to actively assist state officials in determining the course for Alaska. Because of the complexity as well as the sensitivity of the issues involved an experienced attorney is needed to provide the necessary legal assistance. The attached breakdown of costs of an experienced attorney also reflects the need to provide money for travel and to allow the attorney to obtain needed specialized education in this new area of law.

Sincerely yours,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 
Elizabeth L. Shaw
Assistant Attorney General

ELS:bap

cc: Bob Evans
Art Peterson

Salary and Benefits

Attorney IV, Range 24A 72,000

Travel

Provides for travel to:

Anchorage/Juneau/Anchorage - 3 trips - \$	1,100	
Anchorage/outside/Anchorage - 1 trip -	900	
Per diem, 20 days at \$80.00	1,600	
AIDS seminar costs	400	
		4,000

Contractual

Communications costs of \$200 per month for postage, telephone, toll calls and copying -	\$ 1,200	
WESTLAW computerized legal research, \$100 per month -	1,200	
Hookup fees to state's mainframe	1,500	
		5,100

Supplies

Expendable office supplies, \$100 per month -	\$ 1,200	
Library costs for statutes, Administrative Code, and periodicals and law journals, such as BNA's AIDS Reporter -	1,800	
One-time new position costs for non-expendable furniture and PC software -	1,500	
		4,500

Equipment

Item

1 Desk, 72 x 36	726	
1 Swivel Chair	672	
2 Side Chairs	384	
1 Bookcase	143	
1 Locking 4-Drawer File	280	
1 Dictator	691	
1 PC Table	200	
1 Epic Personal Computer with draft printer, modem, and port circuit card	3,400	
		6,496

1/27/88
RIP

AIDS Legal Advisor
Cost Summary

Personal Services

Attorney IV at either Juneau or Anchorage 72.3

Travel 4.0

Contractual

Communications/Copy 200pm x 12 = 2,400
Westlaw 100pm x 12 = 1,200
One-time DP hookup 1,500 x 1 = 1,500 5.1

Supplies

Office Supplies 150pm x 12 = 1,800
Library 100pm x 12 = 1,200
New position 1,500 x 1 = 1,500 4.5

Equipment

New position 1,500 x 1 = 1,500
PC 5,000 x 1 = 5,000 6.5

TOTAL 92.4

Travel provides for trip out of state to attend legal conferences dealing with this rapidly developing legal area (2,000), as well as in-state travel (2,000).

AIDS lawyers: Advocates in realm of sorrow

By ELIZABETH KASTOR
The Washington Post

WASHINGTON — Kenneth Labowitz was conducting what he calls "the closing interview." He looked through all the papers one last time, handed his client the settlement check and launched into his routine speech: thanking his client for the opportunity to work for him, urging the man to get in touch if he could be of help in the future.

"Yeah," the man said, bitter, flat. "I'll give you a call the next time I get a terminal illness."

As Labowitz tells the story, two years later, he still recalls from the words. "I thought, 'Ooh! I didn't deserve that! But on the other hand, I understand where he's coming from. And there's nothing to be said.'"

Three months later, his client was dead.

The man was Labowitz's second client with AIDS. Since then, he has represented more than 75 clients on AIDS-related issues, including last year's much-publi-

'We're doing stuff no one's ever seen before. We're out past Mars. Unexplored territory. . . . It's fascinating work, leaving aside that you're dealing with the greatest human tragedy.'

— AIDS lawyer Kenneth Labowitz

cized case on behalf of a small girl with AIDS temporarily removed from the Fairfax County, Va., school system.

AIDS patients who have been fired from their jobs, who can't get into school, who are denied medical treatment and who then see his name in the paper call from Virginia, Maryland, West Virginia and North Carolina. By virtue of temperament, experience and chance, Labowitz can laughingly say, "I've sort of defined myself as Mr. AIDS in Virginia."

That he could do that is not surprising, given that the field is so small. Ask one AIDS lawyer who else around the country is doing similar work, and you hear six, sev-

en, eight names, no more. Some, like Mauro Montoya, legal director at Washington's Whitman-Walker Clinic, spend their days writing wills, explaining the intricacies of bestowing power of attorney, rushing to hospitals to resolve conflicts between parents and levers — work Labowitz calls "Mother Teresa stuff."

Others, like Labowitz, specialize in litigation, sometimes teaming up with groups like the American Civil Liberties Union and Lambda Legal Defense and Education Fund on what they call "high-impact cases," the ones that leap up the rungs of the court system, make precedent and affect thousands.

"The astonishing thing is there's nothing, nothing, paralleling this stuff," Labowitz says. "We're doing stuff no one's ever seen before. We're out past Mars. Unexplored territory."

With few obvious precedents to rely on, these lawyers are essentially writing new law on questions of privacy, breach of contract, civil rights, child custody:

• Should doctors be required to inform the sex partners of someone who has tested positive that they may be carrying the virus?

• Can people be fired because their employers think they might have AIDS?

• What rights does a sick person have to be included in experimental drug trials?

• Does a hospital being sued for malpractice over the death of a patient from AIDS, contracted after receiving blood transfusions, have the right to keep the names of blood donors confidential? (Last week, the U.S. Supreme Court let stand a lower-court ruling that donors' rights to

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LAWYER: AIDS issues break new ground

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privacy do not override a Texas woman's need to find their identities in a malpractice case over her daughter's death. The Texas hospital must release the names.)

"There are people writing contracts that include the clause, 'If you get AIDS, you don't get paid,'" Labowitz says. "Now, that's an interesting concept, isn't it? But I don't know if it's illegal."

He laughs at the intellectual gymnastics involved in resolving such quandaries. "It's fascinating work, leaving aside that you're dealing with the greatest human tragedy."

In the years to come, the field will inevitably grow more crowded. Already, more than 100 Washington-area lawyers volunteer their counsel through the Whitman-Walker Clinic. The American Bar Association recently appointed a committee to coordinate AIDS-related activities and make recommendations for AIDS policy.

"I think it's hard to come up with any other phenomenon, whether it be an epidemic or a political phenomenon, that will touch as many lawyers in as many communities around the country," says Harlon L. Dalton, an associate professor at Yale Law School and co-editor of "AIDS and the Law: A Guide for the Public."

And so more and more lawyers will, like Labowitz, discover what comes along with the legal adventures: Men, women and children who most likely will die. It is work that makes emotional demands unlike anything most lawyers — or most anyone — would ever expect to confront, and that hardly anyone is trained to handle.

For someone given to crusades, AIDS law is a galvanizing cause. "AIDS is as clear-cut as any discrimination case you see," Labowitz says. "It's sort of like 1954 in terms of race, and 1984 in terms of gender. People say, 'We fired him because he had AIDS? Of course we did!' They don't realize what they're saying."

What they don't realize is that people with AIDS are gaining protection from feder-

al and local laws prohibiting discrimination against people with handicaps.

"We're going to go through a much faster version of what happened after Brown vs. Board of Education and what happened with gender discrimination. Now, there are still stupid things done, but you won't hear people saying, 'We fired that boy because he's a Negro.' We're sensitized."

Labowitz, who is not gay, came to his latest subject in 1985, when the director of Alexandria's Office of Human Rights, who knew of Labowitz's interest in discrimination cases, gave his name to Whitman-Walker director Jim Graham, a lawyer who was looking for a volunteer attorney to take on the case of Richard Goodfellow. Goodfellow had worked for 12 years as a draftsman for an Alexandria firm, and was fired after he told his boss he had AIDS.

"Ken came to us not as a member of our own community, but as someone interested in civil rights," says Graham. "I had to get comfortable that this was someone who would give compassionate as well as competent representation. That dedication was at once apparent to me."

Labowitz was immediately faced with the realities of AIDS. Sitting in Graham's

office on Christmas Eve 1985, he overheard a phone conversation: The companion and family of a man who had died were at the hospital fighting over the body. "I said, 'I can do the discrimination cases, but I can't do that!'" he remembers.

But there has been no avoiding the singular demands of the work. To argue that a child with AIDS should be allowed to attend school, one must stay on top of the latest medical research on transmission of the virus.

"It's very complicated epidemiologically, and there aren't four lawyers who can spell epidemiology," says Labowitz. "Lawyers are doctors who couldn't pass organic chemistry."

And there are other hurdles. "The kind of people who have selected to practice law may not be the best kinds of people for dealing with issues that are emotionally wrenching," says Yale's Dalton.

"The system would collapse if lawyers were free to make judgments about their clients or feel what they feel. So it's a good profession for people who like to keep a sort of tight rein on their own emotions, and not such a good profession in terms of giving us much practice in figuring out how to feel and do at the same time, without having

either activity undermine the other."

"Most of my clients are dying," Labowitz says, "and that's nothing my training prepared me for. The relationship between client and lawyer is bizarre. I make a point to distance myself emotionally from the horror of this."

But ask how he does that, and the generally ebullient lawyer, whose words usually shoot forth as if under pressure, is silent, and remains that way for a long time.


"I guess I tend to make clear what my role is in the professional relationship," he says at last. "I am trying to achieve a set goal in a set time frame with certain limitations. Period. I am not here to be a friend."

It sounds harsh and perhaps he knows it, for he continues, telling the story of his second client and the bitter parting statement.

"What can I say? There's nothing abstract about all this. We're talking about people who have limited options, with a great many problems, some of which are legal. And you do what you can."

"On the other hand, what I can't do, I won't do. And I can't make it better. I can't fix it. Sometimes I can't even fix the legal problems."

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Anchorage Daily News
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