

HB

100

HOUSE COMMITTEE REPORT

(1)

Date Referred: March 3, 1989

FURTHER REFERRALS:

Date of Committee Action: 4/26/89

The FINANCE Committee considered:

HB 188

HOUSE BILL NO. 188

[ADDITIONAL SUPERIOR COURT JUDGE AT KENAI]

"An Act increasing the number of superior court judges designated for the Third Judicial District to provide an additional superior court judge at Kenai; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with _____ the same title
- have 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):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact Courts fiscal note(s) _____
- zero fiscal note _____ zero fiscal note(s) _____
- zero with analysis Public Defender zero fn/analysis _____
Public Advocacy

SIGNING DO PASS:

Hoffman

Swackhammer

Brown

Koponen

Ulmer

Rieger

SIGNING:

(Check approp. column)

	Do Not Pass	No Rec	Amend
<u>ROD E PHILLIPS</u> Phillips			
<u>Ronald J. Larson</u> Larson		X	

CO- Ronald J. Larson
Chairman's signature

FISCAL NOTE

REQUEST:

Revision Date: 4/6/89 Agency Affected: Alaska Court System
 Title: An Act changing the # of superior court judges in the 3rd judicial district BRU: Trial Courts
 Sponsor: Navarre, Swackhammer, Gruenberg Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services		68.4	136.9	136.9	136.9	136.9
Travel						
Contractual						
Supplies						
Equipment		2.0				
Land & Structures						
Grants & Claims						
TOTAL OPERATING	0.0	70.4	136.9	136.9	136.9	136.9

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

General Funds	0.0	70.4	136.9	136.9	136.9	136.9
Federal Funds						
Other						
TOTAL	0.0	70.4	136.9	136.9	136.9	136.9

POSITIONS:

Full-time		4.0	4.0	4.0	4.0	4.0
Part-time		(2.0)	(2.0)	(2.0)	(2.0)	(2.0)
Temporary			0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: Robert G. Fisher, Manager, Fiscal Operations

Phone: 264-8228

Division: Alaska Court System

Date: 04/11/89

Approved by: Arthur H. Snowden, II, Administrative Director

Date: 04/11/89

Agency: Alaska Court System

Distribution (by preparer):

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

RECEIVED
 APR 14 1989

LEGISLATIVE FINANCE

Adopted

ALASKA COURT SYSTEM
Fiscal Analysis
HB 188 - Number of Superior Court Judges

Personal Services:

<u>Position Title</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Superior Court Judge, Kenai PFT, 12 months	\$82,716	\$55,710	\$138,426
Law Clerk I, Kenai PFT, 12 months, range 13D	31,476	12,197	43,673
In-Court Clerk, Kenai PFT, 12 months, range 12A	26,604	11,132	37,736
Secretary II, Kenai PFT, 12 months, range 12A	26,604	11,132	37,736
Magistrate V, Homer PFT, 12 months	46,992	15,591	<u>62,583</u>
Total Personal Services			<u>320,154</u>

Adjustments to Personal Services Costs:

Elimination of PPT pro tempore judge and PPT secretary in Kenai (1)	62,500
Elimination of PFT district court judge in Homer	<u>120,784</u>
Total Reduction of Personal Services	<u>183,284</u>
Net Personal Services	136,870

Equipment: (for Law Clerk position, one-time cost)

Desk, chair, typewriter, statutes, rules of court	<u>1,962</u>
Total Cost (first year - Implementation at mid year)	<u>\$70,397</u>
Total Cost (on-going)	<u>\$136,870</u>

(1) Calculation of Existing Funding:	Amount	Total
FY 82 - Original funding (Free Conference Committee)	\$57,200	\$57,200
FY 83 - 5% salary increase	2,900	60,100
FY 85 - 5% salary increase (funded at 80% of actual)	2,400	62,500

ALASKA COURT SYSTEM
Fiscal Analysis

HB 128 - Number of Superior Court Judges

This legislation would create an additional full-time superior court judge and support staff in Kenai. The new positions will replace a 6-month pro tempore superior court judge and related part-time secretary.

The accompanying fiscal note is a revision of the court's first note on this legislation. During the analysis of this bill, the district court judge in Homer announced his resignation. In light of the resignation, the court undertook a more comprehensive analysis of caseloads on the entire Kenai peninsula for both the superior and district courts.

Among the proposals reviewed were the possibility of upgrading the judicial position in Homer to the superior court level. Under this staffing plan, the Homer judge would have served both the Homer and Kenai courts. However, superior court filings in Homer and the cost of travel between the courts did not support this proposal.

The other major proposal reduced the judicial position in Homer to the magistrate level and created a superior court judge in Kenai. This proposal was selected as the most appropriate for the caseloads and for cost effectiveness.

As a result of this analysis, the court has revised the fiscal note to incorporate the cost savings of the reduction of the Homer district court position to the magistrate level.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act increasing the number of superior court judges at Kenai..."
Sponsor: Reps Navarre, Swackhammer, Gruenberg
Requestor: House Judiciary and Finance

Agency Affected: Dept. of Administration
BRU: Public Defender Agency
Components: Third Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

(See Attachment)

Prepared by: John B. Salemi, Public Defender
Division: Public Defender Agency

Phone: 279-7541
Date: 3-7-89

Approved by Commissioner: John Andrews
Agency: Department of Administration

Date: 3/10/89

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

Adopted

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 188

HB 188 adds one additional superior court judge at Kenai, Alaska. With this addition Kenai would have two superior court judges and one acting district court judge. While there would be no immediate fiscal impact on the Kenai Public Defender office, it is expected the numbers of criminal prosecutions would go up with a commensurate caseload increase at the Public Defender Agency. We would be taking a "wait and see" approach to any fiscal impact of this bill on the Public Defender Agency.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Administration
 Title: "An Act increasing the number of superior court judges at Kenai..." BRU: Office of Public Advocacy
 Sponsor: Rep. Navarre, et. al. Components: _____
 Requestor: House Judiciary & Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Philip L. McGehee
 Prepared by: Brant McGee, Public Advocate Phone: 274-1684
 Division: Office of Public Advocacy Date: 3/7/89
 Approved by Commissioner: John Andrews Date: 3/10/89
 Agency: Department of Administration

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

Adopted

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 188

HB 188 adds one additional superior court judge at Kenai, Alaska. With this addition Kenai would have two superior court judges and one acting district court judge. While there would be no immediate fiscal impact on the Office of Public Advocacy, it is expected the numbers of criminal prosecutions would go up with a commensurate caseload increase to OPA's Kenai contractor. We would be taking a "wait and see" approach to any fiscal impact of this bill on the Office of Public Advocacy.

1 IN THE HOUSE

BY NAVARRE, SWACKHAMMER AND
GRUENBERG

2

HOUSE BILL NO. 188

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act increasing the number of superior court
7 judges designated for the Third Judicial District to
8 provide an additional superior court judge at Kenai;
9 and providing for an effective date."

10

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

11

* Section 1. INTENT. It is the intent of the legislature that the
12 additional superior court judge authorized by this Act be assigned to
13 Kenai.

14

* Sec. 2. AS 22.10.120 is amended to read:

15

16

Sec. 22.10.120. NUMBER OF JUDGES. The superior court consists
of 30 [29] judges, five of whom shall be judges in the first judicial
17 district, three of whom shall be judges in the second judicial dis-
18 trict, 17 [16] of whom shall be judges in the third judicial district,
19 and five of whom shall be judges in the fourth judicial district. At
20 the time of submitting the names of nominees to the governor to fill a
21 vacancy on the superior court bench, the judicial council shall also
22 designate the district in which the appointee is to reside and serve.

23

* Sec. 3. This Act takes effect July 1, 1989.

HB 188 - Additional Superior Court Judge at Kenai

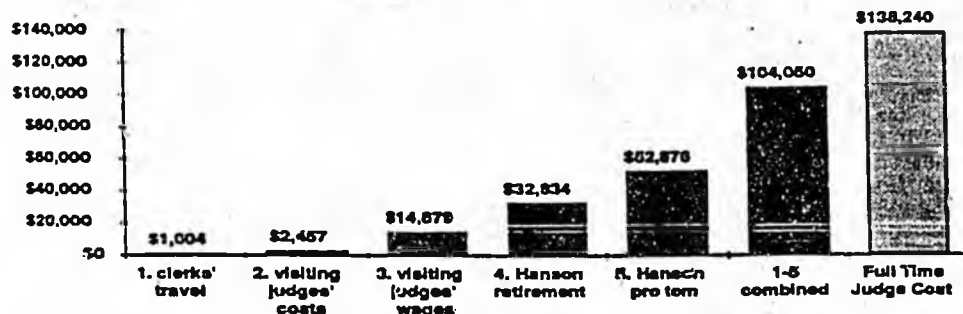
Justification Summary

Representative Mike Navarre

in FY88, the Kenai Court:

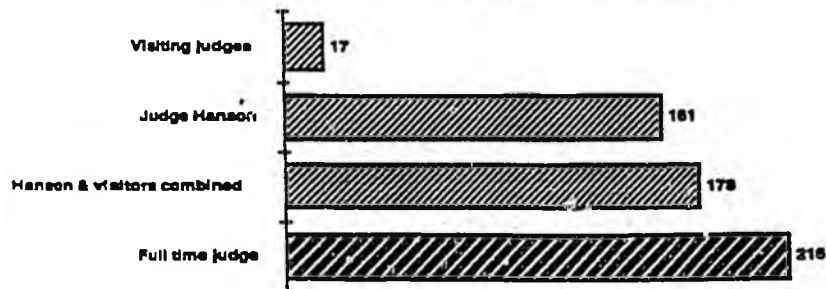
- ☛ had the highest number of filings per judge in the state, 3925 (Palmer 3251; Anchorage 2382; Valdez 395)
- ☛ experienced a 26% jump in trial activity
- ☛ experienced inordinate delays in routine matters
- ☛ assigned all civil trials to visiting judges
- ☛ spent almost as much on part-time and visiting judges as a full-time judge costs:

**Kenai Superior Court
Full-time v. Part-time costs
in 1988**



Kenai's retired judge, James Hanson, is budgeted to work pro tem 2 weeks a month but frequently works another 1 or 2 weeks. In 1988, he worked 161 days, which is 75% of what a full-time judge works. Besides Judge Hanson's pro tem work, other judges travelled to Kenai. Hanson plans to retire completely at the end of June. This will leave a single judge with the work of almost two judges (see graph below).

**Kenai Superior Court
Judge Days, 1988**



FY85 - FY88 the court experienced a 348% increase in children's matters filings, the highest in the state.

In 1986, the Alaska Bar Association unanimously recommended an additional Superior Court Judge for Palmer and Kenai.

Excerpts from attorneys' letters supporting an additional judge.

Judge Cranston spends so much time on the bench hearing disputed criminal and civil cases that he has almost no time to deal with motions and other court proceedings which are generally done in his office. Court matters are so tightly scheduled that there is little ability to meet emergencies or [for lawyers] to simply make an expanded presentation because of the time constraints. Parties and attorneys wait patiently to be heard because they know that a 10 to 12 hour day by Judge Cranston is the normal work day.

However, the delays are piling up, and it is not unusual to wait several months for a court response to a simple motion in a civil case. The delays add to the cost of the litigation.

--Robert C. Erwin, Anchorage (former Supreme Court Justice)

...the current caseload of the Superior Court judge in Kenai does not allow the judge to devote sufficient time to properly analyze what are often complex legal issues...Further, because of the priority of the criminal docket, civil matters are often delayed. Due to the delays and the problem of inadequate time to properly handle cases, the Borough finds itself in the position of accepting these problems or preempting the local judge in order to try to have the case assigned to a judge who has more time. That generally requires the Borough to travel to Anchorage.

--Thomas R. Boedecker, Soldotna (Kenai Peninsula Borough Attorney)

The system is inefficient because it requires Anchorage judges to block out a week of their calendar to attend to Kenai matters with which they have no familiarity before their arrival in town. The system is unfair to local litigants because it frequently results in the scheduling of substantive hearings, on shortened notice, in Anchorage with the parties being required to bear the expense of transporting themselves and their attorneys to Anchorage for such hearings...civil litigants are always uncertain as to when their case will actually be tried and this uncertainty differs markedly from the date certain calendaring which prevails in Anchorage...It is simply unreasonable, in this day and age, to expect that one superior court judge can handle all judicial matters from juvenile proceedings to criminal cases to complex civil litigation and domestic relations for a population in excess of 20,000 [actually 44,000].

--Peter F. Musing, Kenai

The persons needing assistance most are particularly affected. Children's matters, custody and juvenile proceedings, injunctive actions and scheduling expedited motions all overburden the system at present and harm those who can least afford it.

--Martin Friedman, Homer

The court backlog in Kenai makes it virtually impossible for citizens of the Peninsula to have adequate and fair access to our judicial system.

--Robinson, Beiswenger & Ehrhardt, Soldotna

As a matter of course the hearings end up being scheduled for Anchorage because of the judge's location. This creates additional costs and expenditures both of time and money on behalf of an attorney's client. This hardly seems fair to the citizens of the Kenai Peninsula that try to utilize their local court facilities.

--Robert M. Cowan, Kenai

Our jury expenses have doubled for FY86 to FY87 and doubled again from FY87 to FY 88, indicating that much more time and judicial resources are being spent in actual trials. Trials, by the way, are the most intensive drain of all on everyone involved, including the Court and the support staff. There is little time left to do anything else and what little is done must be rushed. The net result is a diminution of the quality of judicial work and decisions, poorer and less predictable decisions, inadvertent injustice, and diminished respect for the Court and the State.

--Joseph L. Kashi, Kenai (President, Kenai Peninsula Bar Association)