

H B

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Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8811

February 14, 1991

The Honorable Gene Kubina
Chairman, House State
Affairs Committee
P.O. Box V
Juneau, Alaska 99811

Dear Representative Kubina:

Thank you for scheduling House Bill 129, establishing a Public Officers' Compensation Commission. This bill was introduced at the request of the Alaska Supreme Court.

HB 129 creates a new Public Officers' Compensation Commission to take the place of the existing State Officers' Compensation Commission. As you know, the existing commission recommends compensation levels for certain state officers to the legislature; its proposals frequently go unheeded for reasons unrelated to their merits.

In contrast, the commission created by HB 129 would have the authority to actually establish compensation levels for the governor, lieutenant governor, members of the legislature, heads of the principal departments, supreme court justices, judges of the court of appeals, judges of the superior court and district court judges. This commission, appointed by the governor, could submit proposed salary, per diem and allowances for those officers to the legislature every two years. These compensation levels would take effect unless disapproved by a bill that was enacted into law within 60 days.

Approximately 26 states, as well as the federal government, currently operate compensation commissions. In nine of those jurisdictions, the commission has the authority to establish

The Honorable Gene Kubina
February 14, 1991
Page 2

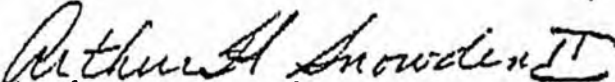
compensation amounts. The purpose behind the existence of these commissions is simple: to see that fair decisions are made regarding the compensation of certain government officials, and to reduce the political battles that inevitably surround such salary decisions.

An essential goal of the Alaska Court System is to attract and retain highly qualified jurists. Achieving this goal requires salaries that are commensurate with the qualifications and responsibilities of the office, which has proven problematic. Last session, the legislature approved the first pay increase for judges since 1985. During the 18 month period preceding that pay raise, the judiciary lost 20 percent of its members.

It is equally important to attract and retain highly qualified legislators and executive branch officials. An independent commission will be able to set fair and reasonable salaries for these officers without fear of voter backlash or charges of conflict of interest.

I hope that you will agree with the supreme court on the need for HB 129. Please feel free to contact my office if you require any additional information on this piece of legislation.

Very truly yours,


Arthur H. Snowden, II
Administrative Director

AHS:bh

**1991 LEGISLATION
POSITION PAPER
DEPARTMENT OF ADMINISTRATION**

Division Personnel **Bill Number** HB129

Bill Title Public Officers Compensation Commission

Position Statement: Explain briefly what bill does, its impacts and Department's position, i.e. a) support, b) do not support, c) neutral or d) oppose.

The Department of Administration opposes expansion of the authority of the Public Officers Compensation Commission.

House Bill 129 would expand the authority of the renamed Public Officers Compensation Commission. The new authority includes setting the compensation of the governor, lieutenant governor, members of the legislature, heads of principal departments of the executive branch, and all judges and justices of the Alaska Court System. Currently, the commission can issue only findings and recommendations. Under HB 129, the commission would issue an order that in the absence of legislative action changes the compensation of the Public Officers listed in the bill. The Commission's order becomes effective 60 days after submission to the legislature unless a legislative bill disapproving the order in its entirety is enacted into law before the effective date.

The intent of this bill is to assign responsibility for setting the salaries of elected and top level officials to the Commission. It will not work. The final authority for approving or disapproving changes to the salary structure still rests with the legislature. The expansion of the authority of the Public Officers Compensation Commission does not change that fact. Elected officials should vote on and assume direct responsibility for increases to the salaries of the positions that they hold.

We support the current role served by the Commission.

APPROVED:

Director David K. F. Otto **Division** Director

print name

Signature  **Date** 2-19-91

Commissioner Millett Keller

Signature  **Date** 2/19/91

(For more information, call Barbara Pritchett 465-2200)

Rev. 1/23/91

**1991 LEGISLATION
POSITION PAPER
DEPARTMENT OF ADMINISTRATION**

Division Labor Relations **Bill Number** HB 129

Bill Title An Act Establishing the Public Officers Compensation Commission

Position Statement: Explain briefly what bill does, its impacts and Department's position, i.e., a) support, b) do not support, c) neutral or d) oppose.

The bill effectively transforms the current Public Officers Compensation Commission (POCC) from an advisory body on salaries for various public officers, into a formal salary setting body whose pay orders are subject to express legislative rejection but do not require express approval before taking effect. The POCC would set salaries for legislators, judges, justices, magistrates, the Governor, the Lt. Governor, and all commissioners; none of these officers are subject to collective bargaining. Nevertheless, the de facto ability of the POCC to grant pay raises to upper management may set undesirable precedent for wage negotiations with collective bargaining units. The factors to be used by the POCC in salary setting are largely the same factors used in bargaining. Consequently, there exists a strong possibility of conflicting wage-setting policies, with deleterious effects on the employers' position as the bargaining table.

We oppose this proposal.

APPROVED:

Director Bruce Cummings **Division** Labor Relations

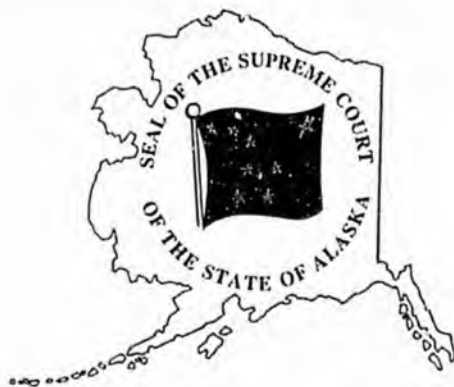
Signature  **Date** 2/15/91

Commissioner, Millett Keller

Signature  **Date** 2/19/91

(For more information, call Barbara Pritchett 465-2200)

Rev. 01/28/91



Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 264-0547
FAX (907) 276-5808

March 3, 1991

The Honorable Dave Donley
Chairman, House Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

Dear Representative Donley:

I am writing to request that the Judiciary Committee schedule House Bill 129, establishing a Public Officers' Compensation Commission, at its earliest convenience. This bill was introduced at the request of the Alaska Supreme Court.

CSHB 129 (STA) creates a new Public Officers' Compensation Commission to take the place of the existing State Officers' Compensation Commission. As you know, the existing commission recommends compensation levels for certain state officers to the legislature; its proposals frequently go unheeded for reasons unrelated to their merits.

In contrast, the commission created by CSHB 129 (STA) would have the authority to actually establish compensation levels for the governor, lieutenant governor, members of the legislature, heads of the principal departments, supreme court justices, judges of the court of appeals, judges of the superior court and district court judges. This commission, appointed by the governor, could submit proposed salary and per diem for those officers to the legislature every two years. These compensation levels would take effect on the first day of the following regular session, unless disapproved by a bill that was enacted into law before that date.

Approximately 26 states, as well as the federal government, currently operate compensation commissions. In nine of those

The Honorable Dave Donley
March 3, 1991
Page 2

jurisdictions, the commission has the authority to establish compensation amounts. The purpose behind the existence of these commissions is simple: to see that fair decisions are made regarding the compensation of certain government officials, and to reduce the political battles that inevitably surround such salary decisions.

An essential goal of the Alaska Court System is to attract and retain highly qualified jurists. Achieving this goal requires salaries that are commensurate with the qualifications and responsibilities of the office, which has proven problematic. Last session, the legislature approved the first pay increase for judges since 1985. During the 18 month period preceding that pay raise, the judiciary lost 20 percent of its members.

It is equally important to attract and retain highly qualified legislators and executive branch officials. An independent commission will be able to set fair and reasonable salaries for these officers without fear of voter backlash or charges of conflict of interest.

I hope that you will agree with the supreme court on the need for CSHB 129 (STA). Please feel free to contact my office if you require any additional information on this piece of legislation.

Very truly yours,



FOR Arthur H. Snowden, II
Administrative Director

AHS:bh

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

March 8, 1991

SUBJECT: Public Officers Compensation Commission (CSHB 129(STA))

TO: Representative Dave Donley, Chair
House Judiciary Committee

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have asked whether CSHB 129 (State Affairs), creating the Public Officers Compensation Commission, violates the state constitution.

In my opinion, the bill does not violate the state constitution although there are situations in which actions taken under the bill could pose legal questions.

1. Power of appropriation.

The bill creates a commission which is empowered to establish the compensation of public officers. Under section 14, enacting AS 39.23.241(c), an order of the commission making changes to compensation becomes effective unless the legislature enacts a bill disapproving the order before the effective date of the change to compensation. However, the bill does not address what happens if the legislature does not disapprove the order but also does not appropriate the additional money necessary to fund an increase to compensation of an office.

The power of appropriation is given to the legislature by the state constitution. Art. 9, sec. 13. Legislation cannot diminish that power, so the commission's action cannot substitute for an appropriation. In Public Employees, Local 71 v. State, 775 P.2d 1062 (Alaska 1989), the court construed AS 23.40.215(a), making the monetary terms of state employee collective bargaining agreements subject to legislative approval, and noted that under the state constitution, funding of an agreement was constitutionally relegated to the legislature even in the absence of the statute.

If an order increases compensation but money is not appropriated to fund the increase, the public officer would be entitled to compensation at the new, higher,

Representative Dave Donley

March 8, 1991

Page 2

level. However, neither the officer nor the compensation commission could force the legislature to appropriate the additional sums necessary, with the result that the state would owe the public officer a debt whose payment would be subject to legislative appropriation at the discretion of the legislature.

To avoid creating a debt to a public officer if the legislature fails to appropriate for an increase to compensation, language could be inserted into the bill stating that a change to compensation was subject to legislative appropriation. Similar language exists in AS 23.40.215(a) (the Public Employment Relations Act) for public employee collective bargaining contracts. In the alternative, to ensure that an order of the commission is funded, a constitutional amendment would be necessary, amending the legislature's power to appropriate and the governor's power to reduce or veto appropriations.

2. Diminishment of Compensation.

There is another limitation on the power of the Public Officers Compensation Commission to establish salaries. Under art. 3, sec. 15 and art. 4, sec. 13 of the state constitution, the compensation of the governor and lieutenant governor and of justices and judges may not be diminished during their terms of office except by general law applying to all salaried officers of the state. Therefore, the commission would be unable to reduce the compensation for the governor, lieutenant governor, justices, and judges currently in office unless the legislature had enacted legislation reducing salaries generally.

If I may be of further assistance, please let me know.

TC:pl

91-139.plm

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

March 12, 1991

Hon. Dave Donley, Chair
House Judiciary Committee
Room 120 - Capitol
Juneau, Alaska 99811

Re: HB129

Dear Representative Donley:

Please find enclosed proposed amendments to the above bill along the lines recommended by our department's former regulations and legislation attorney, Ron Lorensen.

We additionally note that we are not convinced that the deferral of the duty to set the salaries of the governor, lieutenant governor, and judges to the commission is appropriate under Article III, sec. 15 and Article IV, sec. 13 of the Alaska Constitution, despite the addition of language which assures that the appropriation and veto process is not avoided. However, we understand you plan to proceed on the advice of legislative and court system counsel that there are no constitutional problems with the bill. For that reason, and since we understand that you want to pass the bill out of your committee today, we have not prepared an opinion to supplement Mr. Lorensen's notes on these subjects, which we supplied to the state affairs committee, and attach here.

Hon. Dave Donley, Chair
House Judiciary Committee

March 13, 1991
Page 2

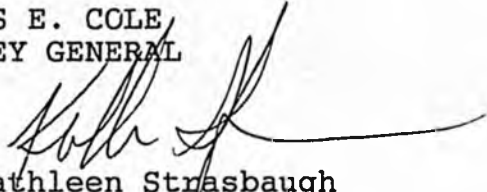
If you do not receive the amendments before you pass HB129 out of your committee, we would very much appreciate it if you would send this correspondence and the amendments along to the next committee to which the bill has been referred.

Thank you for the opportunity to comment.

Sincerely yours,

CHARLES E. COLE
ATTORNEY GENERAL

By:


Kathleen Strasbaugh
Assistant Attorney General

KS:lmk

Enclosure

cc w/o encl: Jeffrey W. Bush, Assistant Attorney General
Regulations and Legislation Section
Department of Law

Amendment proposed by the Department of Law

Add to Section 15 of the bill, proposed amendments to AS 39.23.250, an (a) before "The commission" on page 4, line 27, and add a new subsection (b) to read as follows:

(b) The commission's adoption of an order is not subject to the Administrative Procedures Act. The order shall be published in the Alaska Administrative Register and Code for informational purposes.

PF1 Alternate
PF6 Reply PF7 Resend PF8 Print

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201

From: WCMCOO2 --JDCVM1
To: WPFCJIM --JDCVM1

and time 02/20/91 10:13:38
WPFCCKJS --JDCVM1

From: Ron Lorensen
Asst. A.G.

Leg. & Regs., Juneau AGO

Subject: HB 129--Public Officers Compensation Commission

FYI. I assume one of you will end up following this bill after next week.

I attended House State Affairs committee hearing on the bill this morning. I didn't testify, but they had a copy of my profs note. Chris Christenson, staff attorney for the Court System, testified and addressed each of these points. He acknowledged that point 2 (can't bind future legislatures) was correct. On point 1, he said he'd done Westlaw research trying to find cases where courts have said "by law" means only in statute, rather than through a statutory delegation to some other body or official. Said he didn't find any cases saying "by law" means only by (in) statute, but did find several cases that said a legislative delegation to do or act on a particular matter was okay, even though it was required to be done "by law".

The committee held the bill over for further consideration. The chairman (Kubina) said he understood the gov was opposed to the bill because it circumvented his ability to veto legislation that set salaries. Kubina asked Christenson whether it would be okay to give the governor some kind of veto

File in this bill, so something along those lines may be included.

After the hearing I talked to Christenson for a couple minutes. I told him I didn't have firm opinions on these questions, but was just issue spotting for the gov's office. I told him I thought (and would have suggested, if asked to testify) that the bill should include a provision requiring the commission's salary orders to be published in the AAC, even though they would not be subject to the AS 44.62 procedures--much the same as with the personnel rules. This would give the public a specific place to look to find salaries for covered officials and would also lend a little more weight to their legal standing.

Thanks. Ron

*** Forwarding note from WCMC002 --JDCVM1 02/19/91 16:44 ***

To: GASCBFA --JDCVM1

From: Ron Lorensen
Asst. A.G.

PF1 Alternate PFs PF2 File NOTE PF3 Keep PF4 Erase PF5 Forward Note
PF6 Reply PF7 Resend PF8 Print PF9 Help PF10 Next PF11 Previous PF12 Return
VIEW THE NOTE

E01

Asst. A.G.
Leg. & Regs., Juneau AGO

Subject: HB 129--Public Officers Compensation Commission

Here are the main legal (constitutional) issues I see raised by this bill:

1. The constitution specifically says that the compensation for the governor and lieutenant governor (art. III, sec. 15) and for judges (art. IV, sec. 13) are to be "prescribed by law". I think there is a good argument that this bill does not "prescribe their salaries by law", since it sets out a procedure for establishing salaries (formulation of salary orders by the commission) for the gov. It gov, and judges that does not culminate in legislation which is enacted as LAW. This argument is strengthened by the fact that the procedure would circumvent the governor's ability to veto legislation enacted by the legislature. This infirmity does NOT apply to the procedure for setting salaries for commissioners or legislators, however.

2. There is also a very good argument that the procedure for establishing these salaries impermissably interferes with the powers of future legislatures. Under the bill, salary orders of the commission would become effective 60 days after they are submitted to the legislature, unless a bill disapproving the order(s) is enacted into law during that period. It's

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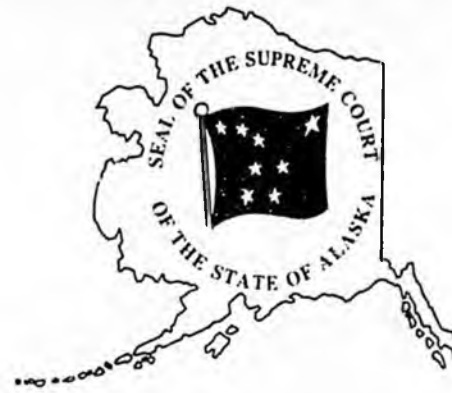
E01

disapproving the order(s) is enacted into law during that period. It's probably (see point three) permissible to set salaries in accordance with orders of the commission, so long as the legislature does not see fit to disapprove or change those salaries. BUT, to the extent the language of the bill is intended to result in a final salary that the legislature could not change after the 60 days has elapsed, it goes too far. One legislature can't bind or limit the power of a future legislature (the constitution can, of course), so salary orders of the commission would always be subject to being overridden by the legislature--no matter how long after they "take effect" under the bill.

3. There is also an issue of whether giving this commission the ability to set salaries for these public officials constitutes an impermissible delegation of legislative power. Although I think there is an issue on this point, I think the better answer is that it's okay because the bill does set out a pretty comprehensive list of standards or factors to be taken into account in arriving at compensation levels.

Those are the main issues I see in the short period of time I've had to look the bill over and think about it. Hope this helps. Bye.

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Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III
Staff Counsel

303 K Street
Anchorage, AK 99501
(907) 264-8228

March 17, 1991

The Honorable Dave Donley
Chairman, House Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

Dear Representative Donley:

You have asked for comments on the concerns expressed by a representative of the Department of Law at the committee's March 12 hearing on HB 129. As I understand it, the department is not convinced that the delegation of legislative power made by that bill conforms with the Alaska Constitution.

Three jurisdictions have operated a compensation commission similar to that created by HB 129. A review of the case law confirms that a legislative body may delegate its power to set the salaries of certain public officials, even when the particular constitution requires that such salaries be prescribed "by law."

The Congress created the first such compensation commission with the Federal Salary Act of 1967, 2 U.S.C. § 351 et seq. This Act authorizes a commission to review the salaries of members of Congress, justices and judges, and certain officials of the executive branch. The commission's report is presented to the President, who makes salary recommendations to the Congress. From 1967 to 1985, the recommendations took effect if the Congress did not disapprove them within 30 days by single-house resolution. From 1985 to 1989, the method of disapproval was by joint resolution.

The Salary Act was upheld with respect to the setting of judicial salaries in Atkins v. United States, 556 F.2d 1028 (Ct.Cl. 1977), cert. denied, 434 U.S. 1009 (1978). In considering the delegation of this legislative function, the court stated:

Nonetheless, this particular power, though legislative in character, can be delegated under proper standards, at least so long as Congress retains the ultimate authority. . . . For both judicial and congressional compensation, we have no doubt of the validity of a hypothetical statute which established the same mechanism as the Salary Act but dispensed with the one-House veto, providing only a specified layover period to allow Congress to enact an overriding statute in ordinary course. . . . Accordingly, there is nothing invalid in the establishment by the Salary Act of an advisory Commission, or of the provisions for a presidential recommendation on salaries, for the layover period, for the overriding of the presidential recommendation by a regular statute, and for giving effect to the presidential proposal if Congress takes no action at all

Atkins, 556 F.2d at 1060.

While Atkins was concerned primarily with the delegation of the power to set judicial pay, two federal decisions have upheld the Salary Act with respect to congressional compensation. For our purposes, this is more significant in that the applicable provision of the United States Constitution requires congressional pay to be "ascertained by Law," much as the Alaska Constitution requires the salaries of the governor, lieutenant governor, and justices and judges to be "prescribed by law."

In Pressler v. Simon, 428 F.Supp. 302 (D.D.C. 1976), aff'd sub nom. Pressler v. Blumenthal, 434 U.S. 1028 (1978), plaintiff argued that the Salary Act violated Article I, Section 6, of the United States Constitution, which provides in pertinent part:

The Senators and Representatives shall receive a Compensation for their Services to be ascertained by Law,

Plaintiff contended that the phrase "to be ascertained by Law" constitutes a mandatory requirement that compensation be fixed by a law passed by Congress. In rejecting this argument, the court stated:

In the Salary Act it [Congress] has explicitly reserved the right to enact legislation fixing congressional compensation regardless of what recommendation it receives from the President. As already noted, it retains this right under the Adjustment Act by the use of its appropriation powers.

The Honorable Dave Donley
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Page 3

Pressler, 428 F.Supp. at 305. While these limitations are present in HB 129, it should be noted that the Pressler court also commented favorably on two features contained in the Salary Act that an Alaska law could not have, specifically a one-house veto and congressional representation on the commission. 428 F.Supp. at 305.

The court went on to state that the verb "ascertain" does not have such a narrow and limiting effect that it would prevent Congress from delegating its power in this area. As long as Congress retained the ultimate authority for determining what its members' salaries would be, members could be held accountable by the voters, which was the animating purpose behind the Ascertainment Clause. 428 F.Supp. 305, 306.

The most recent case upholding the Salary Act is Humphrey v. Baker, 848 F.2d 211 (D.C.C. 1988), cert. denied 488 U.S. 966 (1988). In that case, plaintiff challenged the Act following the 1985 amendments which eliminated the one-house veto and required a disapproving resolution passed by both bodies. Plaintiff's contentions were the same as raised in Pressler. In rejecting them, the court stated:

In our view, post-Pressler changes in the Salary Act have not altered in any significant fashion the system for setting Congressional salaries. . . . In short, those devices, in varying degrees, remain efficaciously available to Congress.

848 F.2d at 216. According to the court, those "devices" included significant checks in the form of the appropriation process, the disapproval mechanism, and the ability at any time to enact superceding legislation. In short, Congress had not delegated its final responsibility for the setting of congressional salaries. 848 F.2d at 215.

Two states, Delaware and Illinois, operate statutory compensation commissions that have the power to establish salaries. There are no reported cases addressing the Delaware statute. However, the Illinois courts have upheld the right of that state's general assembly to create a compensation commission that effectively establishes salaries.

The Illinois statute provides for a 12 member Compensation Review Board, appointed by the presiding officers and minority leaders of the house and senate. The board is charged with recommending compensation for members of the general assembly, judges, elected constitutional officers, and certain appointed officers. Recommendations are filed with the assembly every other year, and

The Honorable Dave Donley
March 17, 1991
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take effect unless disapproved by a majority of the members of each house.

The Illinois Constitution is similar to the Alaska Constitution in providing that the salaries of judges and executive officers shall be "provided" or "established" "by law." (Ill. Const. 1970, art. VI, sec. 14; Ill. Const. 1970, art. V, sec. 21.)

The constitutionality of the board was upheld by the Illinois Supreme Court in Quinn v. Donnewald, 483 N.E.2d 216 (Ill. 1985). In that case, the court held that the general assembly could not delegate its general legislative powers to establish salaries. However, it found that the creation of the board did not amount to such a delegation. First, the court found that the board itself was created "by law," and this was enough to meet constitutional requirements that salaries be provided or established by law. 483 N.E.2d at 219, 220. Second, the power to recommend salaries was restricted by guidelines set forth by the assembly that the board had to follow. 483 N.E.2d at 220, 221. Third, the assembly retained the ultimate power over setting salaries by virtue of the legislative veto provision and, less relevantly, by the fact that it had to appropriate money to pay the salaries. 483 N.E.2d at 221.

While the Alaska Supreme Court has never addressed the specific delegation issue raised by HB 129, it has ruled that when the constitution requires a function to be performed "by law," it does not necessarily mean that the legislature is prohibited from delegating the function. Warren v. Boucher, 543 P.2d 731, 733 (Alaska 1975). While the legislature's right to delegate its power under such circumstances is not unlimited, a narrow delegation subject to appropriate review may be upheld where it would be impractical or cumbersome for the legislature to undertake the task in question. 543 P.2d at 734. The history of problems faced by the legislature in attempting to establish fair and reasonable salaries for its members and other public officers provides ample evidence of the impractical and cumbersome nature of the task.

It is reasonable to conclude that legislation creating a compensation commission that contained certain essential elements would withstand a legal challenge. First, an order of the commission setting salaries should not take effect until the legislature has had the opportunity to disapprove it. State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980) would require that this disapproval be done by enactment of a law, not by resolution. Second, the legislature must retain the authority to change salaries on its own initiative. Since one legislature cannot bind another, this power could not in fact be taken away by legislation creating a compensation commission. Third, the

The Honorable Dave Donley
March 17, 1991
Page 5

legislation creating the commission must contain intelligible standards to delimit the commission's authority in setting compensation. HB 129 contains such standards. Fourth, the legislature must retain the power to appropriate money to pay salaries established by the commission. Again, this is not a power that could be taken away by legislation.

Please advise if you have any questions or comments.

Very truly yours,



C.S. Christensen III
Staff Counsel

CSC:bh

WALTER J. HICKEL
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

MEMORANDUM

TO: The Honorable Dave Donley DATE: March 12, 1991
Chairman
House Judiciary Committee
Seventeenth Alaska
State Legislature

PHONE: 465-3616

FROM: Mike Nizich *MN* SUBJECT: CSHB 129 (STA)
Director, Division of
Administrative Services
Office of the Governor

Section 14 of CSHB 129 (STA) changes the reporting years for the Public Officer Compensation Commission to every even-numbered year rather than the odd-number years specified in the original bill. As such, a revised fiscal note is necessary to correctly demonstrate the years of anticipated expenditures.

Please substitute the previous Office of the Governor fiscal note with the attached revised note dated 3/11/91. Thank you for your assistance.

Attachment

cc: Representative Kubina
Chairman
House State Affairs Committee

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSHB 129 (STA)

Revision Date: 3/11/91 Department Affected: Office of the Governor
 Title: "An Act establishing the Public Officers Compensation Commission;..." BRU: Commissions and Special Offices
 Component: Public Officers Compensation Commission
 Sponsor: House Rules Committee
 Requestor: House Judiciary Committee COMPONENT SERIAL NO.

N	A		
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	24.8	7.4	-0-	7.4	-0-	7.4
CONTRACTUAL	36.1	33.9	7.2	33.9	7.2	33.9
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	60.9	41.3	7.2	41.3	7.2	41.3

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	60.9	41.3	7.2	41.3	7.2	41.3
FEDERAL FUNDS						
OTHER						
TOTAL	60.9	41.3	7.2	41.3	7.2	41.3

POSITIONS:

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

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis

Prepared By: Michael A. Nizich, Director Phone: 465-3616
 Division: Division of Administrative Services Date: 3/11/91
 Approved by Commissioner: D. Max Hodel, Chief of Staff
 Agency: Office of the Governor Date: 3/12/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Proposed legislation replaces State Officers Compensation Commission. Fiscal note assumptions are based on the activity of the State Officers Compensation Commission which held four meetings in first fiscal year for organizational and first report purposes. Subsequent years reflect "every other year" meeting and report to the legislature.

PERSONAL SERVICES -0-

Fiscal note assumes staff and related expenses will be provided by the Department of Administration per Sec. 14 AS 39.23.230(a)

TRAVEL 24.8

Fiscal note assumes 4 meetings and two teleconferences for public comment prior to Commission report/order in the first fiscal year. Subsequent years reflect no travel activity during off-reporting years and one meeting with two public teleconferences each reporting year. Travel and per diem calculations figures average air fare and per diem expenses for the seven public members.

First Year

Public members:

Airfare	3856 x 4 =	15,424	
Per diem	1470 x 4 =	5,880	21,304

Administrative travel:

Airfare	479 x 3 =	1,437	
Per diem	210 x 3 =	630	2,067

Teleconference per diem for Commission members	1,400		1,400
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TOTAL TRAVEL: 24,771

"Every Other" year

Public members:

Airfare	3856 x 1 =	3,856	
Per diem (per diem based on 3 day meeting)	2100 x 1 =	2,100	5,956

Teleconference per diem for Commission members	1,400		1,400
--	-------	--	-------

TOTAL TRAVEL: 7,356

CONTRACTUAL 36.1

Contractual calculations vary according to reporting/non-reporting years.

First year:

Communication:

Teleconference charges -- 2 @ 4740	9,480	
Postage -- 300/mo x 12	3,600	13,080

Transportation:

Freight and express charges -- 150/mo x 12		1,800
--	--	-------

Advertising, Printing & Binding:

Subscriptions	250	
Advertising -- 6 meetings x 750	4,500	
Annual report	15,000	
Forms, misc.	1,500	21,250

TOTAL CONTRACTUAL: 36,130

Off-reporting year:

Communication:

Postage -- 300/mo x 12		3,600
------------------------	--	-------

Transportation:

Freight and express charges -- 150/mo x 12		1,800
--	--	-------

Advertising, Printing & Binding:

Subscriptions	250	
Forms, misc.	1,500	

TOTAL CONTRACTUAL: 7,150

CONTRACTUAL (continued)

Reporting year:

Communication:

Teleconference charges -- 2 @ 4740	9,480	
Postage -- 300/mo x 12	3,600	13,080

Transportation:

Freight and express charges -- 150/mo x 12		1,800
--	--	-------

Advertising, Printing & Binding:

Subscriptions	250	
Advertising -- 3 meetings x 750	2,250	
Annual report	15,000	
Forms, misc.	1,500	19,000

TOTAL CONTRACTUAL:		33,880
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FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill No. CSHB 129 (State Affairs)

Revision Date: 03/11/91 Department Affected: Alaska Court System
 Title: An Act establishing the Public Officers Compensation Commission... BRU: _____
 Sponsor: By Rules Committee by request Components: _____
 Requestor: Judiciary COMPONENT SERIAL NO.

000 000	000 768
-----------	-----------

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Division: Alaska Court System Date: 03/11/91

Approved by: Arthur H. Snowden, II, Administrative Director
 Agency: Alaska Court System Date: 03/11/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 3
Bill Version: CSHB 129 (STA)
(H) Publish Date: 3/4/91

Revision Date: _____ Department Affected: Alaska Court System
Title: An Act establishing the Public Officers Compensation Commission... BRU: _____
Sponsor: By Rules Committee by request Components: _____
Requestor: State Affairs COMPONENT SERIAL NO.

000 000	000 768
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *C. S. Christensen III* Phone: 264-8228
Division: Alaska Court System Date: 02/14/91

Approved by: Arthur H. Snowden, II, Administrative Director *Stephanie Cole for*
Agency: Alaska Court System Date: 02/14/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 1
Bill Version: CSHB 129(STA)
(H) Publish Date: 3/4/91

Revision Date: _____ Department Affected: Office of the Governor
Title: "An Act establishing the Public Officers Compensation Commission;..." BRU: Commissions and Special Offices
Sponsor: House Rules Committee Component: Public Officers Compensation Commission
Requestor: House State Affairs COMPONENT SERIAL NO.

N	A		
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	24.8	-0-	7.4	-0-	7.4	-0-
CONTRACTUAL	36.1	7.2	33.9	7.2	33.9	7.2
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	60.9	7.2	41.3	7.2	41.3	7.2

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	60.9	7.2	41.3	7.2	41.3	7.2
FEDERAL FUNDS						
OTHER						
TOTAL	60.9	7.2	41.3	7.2	41.3	7.2

POSITIONS:

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

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis

Prepared By: Michael A. Nizich, Director Phone: 465-3616
Division: Administrative Services Date: _____
Approved by Commissioner: D. Max Hodel, Chief of Staff
Agency: Office of the Governor Date: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Proposed legislation replaces State Officers Compensation Commission. Fiscal note assumptions are based on the activity of the State Officers Compensation Commission which held four meetings in first fiscal year for organizational and first report purposes. Subsequent years reflect "every other year" meeting and report to the legislature.

PERSONAL SERVICES -0-

Fiscal note assumes staff and related expenses will be provided by the Department of Administration per Sec. 14 AS 39.23.230(a)

TRAVEL 24.8

Fiscal note assumes 4 meetings and two teleconferences for public comment prior to Commission report/order in the first fiscal year. Subsequent years reflect no travel activity during off-reporting years and one meeting with two public teleconferences each reporting year. Travel and per diem calculations figures average air fare and per diem expenses for the seven public members.

First Year

Public members:

Airfare	3856 x 4 =	15,424	
Per diem	1470 x 4 =	5,880	21,304

Administrative travel:

Airfare	479 x 3 =	1,437	
Per diem	210 x 3 =	630	2,067

Teleconference per diem for Commission members	1,400		1,400
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TOTAL TRAVEL: 24,771

"Every Other" year

Public members:

Airfare	3856 x 1 =	3,856	
Per diem (per diem based on 3 day meeting)	2100 x 1 =	2,100	5,956

Teleconference per diem for Commission members	1,400		1,400
--	-------	--	-------

TOTAL TRAVEL: 7,356

CONTRACTUAL 36.1

Contractual calculations vary according to reporting/non-reporting years.

First year:

Communication:

Teleconference charges -- 2 @ 4740	9,480	
Postage -- 300/mo x 12	3,600	13,080

Transportation:

Freight and express charges -- 150/mo x 12		1,800
--	--	-------

Advertising, Printing & Binding:

Subscriptions	250	
Advertising -- 6 meetings x 750	4,500	
Annual report	15,000	
Forms, misc.	1,500	21,250

TOTAL CONTRACTUAL: 36,130

Off-reporting year:

Communication:

Postage -- 300/mo x 12		3,600
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Transportation:

Freight and express charges -- 150/mo x 12		1,800
--	--	-------

Advertising, Printing & Binding:

Subscriptions	250	
Forms, misc.	1,500	

TOTAL CONTRACTUAL: 7,150

CONTRACTUAL (continued)

Reporting year:

Communication:

Teleconference charges -- 2 @ 4740	9,480	
Postage -- 300/mo x 12	3,600	13,080

Transportation:

Freight and express charges -- 150/mo x 12		1,800
--	--	-------

Advertising, Printing & Binding:

Subscriptions	250	
Advertising -- 3 meetings x 750	2,250	
Annual report	15,000	
Forms, misc.	1,500	19,000

TOTAL CONTRACTUAL:		33,880
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FISCAL NOTE

BILL NO. HB 129

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____
 Title: Public Officers Compensation Commission
 Sponsor: Rules by Request (of Court System)
 Requestor: _____

Department Affected: Administration
 BRU: Personnel
 Component: Personnel

COMPONENT SERIAL NO.

		5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
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	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	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

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Experience with the two earlier compensation commissions indicate that the level of assistance requested is minor, and consists of readily available information. The added costs have been, and we expect them to continue to be, negligible.

Prepared by: David K. F. Otto *KFO*
 Division: Personnel

Phone: 465-4430
 Date: February 19, 1991

Approved by Commissioner: Millett Keller *Millett Keller*
 Agency: Administration

Date: 2/21/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 129

Revision Date: _____ Department Affected: Office of the Governor
 Title: "An Act establishing the Public Officers Compensation Commission;..." BRU: Commissions and Special Offices
 Component: Public Officers Compensation Commission
 Sponsor: House Rules Committee
 Requestor: House State Affairs COMPONENT SERIAL NO.

N	A		
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	24.8	-0-	7.4	-0-	7.4	-0-
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GRANTS, CLAIMS						
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TOTAL OPERATING	60.9	7.2	41.3	7.2	41.3	7.2

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	60.9	7.2	41.3	7.2	41.3	7.2
FEDERAL FUNDS						
OTHER						
TOTAL	60.9	7.2	41.3	7.2	41.3	7.2

POSITIONS:

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

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis

Prepared By: Michael A. Nizich, Director Phone: 465-3616
 Division: Administrative Services Date: _____

Approved by Commissioner: D. Max Hodel, Chief of Staff
 Agency: Office of the Governor Date: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Proposed legislation replaces State Officers Compensation Commission. Fiscal note assumptions are based on the activity of the State Officers Compensation Commission which held four meetings in first fiscal year for organizational and first report purposes. Subsequent years reflect "every other year" meeting and report to the legislature.

PERSONAL SERVICES -0-

Fiscal note assumes staff and related expenses will be provided by the Department of Administration per Sec. 14 AS 39.23.230(a)

TRAVEL 24.8

Fiscal note assumes 4 meetings and two teleconferences for public comment prior to Commission report/order in the first fiscal year. Subsequent years reflect no travel activity during off-reporting years and one meeting with two public teleconferences each reporting year. Travel and per diem calculations figures average air fare and per diem expenses for the seven public members.

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TOTAL TRAVEL: 24,771

"Every Other" year

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Teleconference per diem for Commission members	1,400		1,400
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TOTAL TRAVEL: 7,356

CONTRACTUAL 36.1

Contractual calculations vary according to reporting/non-reporting years.

First year:

Communication:

Teleconference charges -- 2 @ 4740	9,480	
Postage -- 300/mo x 12	3,600	13,080

Transportation:

Freight and express charges -- 150/mo x 12		1,800
--	--	-------

Advertising, Printing & Binding:

Subscriptions	250	
Advertising -- 6 meetings x 750	4,500	
Annual report	15,000	
Forms, misc.	1,500	21,250

TOTAL CONTRACTUAL: 36,130

Off-reporting year:

Communication:

Postage -- 300/mo x 12		3,600
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Transportation:

Freight and express charges -- 150/mo x 12		1,800
--	--	-------

Advertising, Printing & Binding:

Subscriptions	250	
Forms, misc.	1,500	

TOTAL CONTRACTUAL: 7,150

CONTRACTUAL (continued)

Reporting year:

Communication:

Teleconference charges -- 2 @ 4740	9,480	
Postage -- 300/mo x 12	3,600	13,080

Transportation:

Freight and express charges -- 150/mo x 12		1,800
--	--	-------

Advertising, Printing & Binding:

Subscriptions	250	
Advertising -- 3 meetings x 750	2,250	
Annual report	15,000	
Forms, misc.	1,500	19,000

TOTAL CONTRACTUAL:		33,880
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FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 2
 Bill Version: CSHB 129 (STA)
 (H) Publish Date: 3/4/91

Revision Date: _____
 Title: Public Officers Compensation Commission

Department Affected: Administration
 BRU: Personnel
 Component: Personnel

Sponsor: Rules by Request (of Court System)
 Requestor: _____

COMPONENT SERIAL NO.

		5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
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	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	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

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Experience with the two earlier compensation commissions indicate that the level of assistance requested is minor, and consists of readily available information. The added costs have been, and we expect them to continue to be, negligible.

Prepared by: David K. F. Otto *KFO*
 Division: Personnel

Phone: 465-4430
 Date: February 19, 1991

Approved by Commissioner: Millet Keller *Millet Keller*
 Agency: Administration

Date: 2/21/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 3
Bill Version: CSHB 129 (STA)
(H) Publish Date: 3/4/91

Revision Date: _____ Department Affected: Alaska Court System
Title: An Act establishing the Public Officers Compensation Commission... BRU: _____
Sponsor: By Rules Committee by request Components: _____
Requestor: State Affairs COMPONENT SERIAL NO.

000 000	000 768
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *C. S. Christensen III* Phone: 264-8228
Division: Alaska Court System Date: 02/14/91

Approved by: Arthur H. Snowden, II, Administrative Director *Stephanie Cole for*
Agency: Alaska Court System Date: 02/14/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

HOUSE COMMITTEE REPOP

(7)

Date Referred: March 4, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-18-91

The JUDICIARY Committee considered:

HB 129

HOUSE BILL NO. 129

PUBLIC OFFICERS COMPENSATION COMMISSION

"An Act establishing the Public Officers Compensation Commission; relating to the compensation of the governor, lieutenant governor, members of the legislature, heads of the principal departments of the executive branch of government, supreme court justices, judges of the court of appeals, judges of the superior court, and district court judges; and providing for an effective date."

RECOMMENDATIONS:

be replaced with C.SHB 129 (JUD)

the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) office of Gov. 3-4-91

zero fiscal note _____

zero fiscal note(s) Admin. 3-4-91, AK. COURT SYSTEM 3-4

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Dennis Dowley</i>					
<i>Max Thurmond</i>		<i>Terry Martin</i>		<i>✓</i>	<i>✓</i>
<i>J. L. Ellis</i>		<i>Mark Stanley</i>		<i>X</i>	
<i>Kevin P. ...</i>					

Dennis Dowley
 CHAIRMAN'S SIGNATURE

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 11, 1991

FURTHER REFERRALS

Judiciary
Finance

Date of Committee Action: March 1, 1991

The STATE AFFAIRS Committee considered:

HB 129

HOUSE BILL NO. 129

PUBLIC OFFICERS COMPENSATION COMMISSION

"An Act establishing the Public Officers Compensation Commission; relating to the compensation of the governor, lieutenant governor, members of the legislature, heads of the principal departments of the executive branch of government, supreme court justices, judges of the court of appeals, judges of the superior court, and district court judges; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 129 (State Affairs) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact Office of Gov - Admin Services fiscal note(s) _____

zero fiscal note Admin. and Alaska Court zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
<u>Gene Kubina</u>				
	<u>Mike Miller</u>		<input checked="" type="checkbox"/>	
	<u>Fred Smith</u>		<input checked="" type="checkbox"/>	
	<u>Tom Deppa</u>		<input checked="" type="checkbox"/>	

Eugene A. Kubina
Chairman's Signature

FISCAL NOTE

Bill No. HB 129

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act establishing the Public Officers Compensation Commission... BRU: _____
 Sponsor: By Rules Committee by request Components: _____
 Requestor: State Affairs COMPONENT SERIAL NO. 000 | 000 000 | 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *C. S. Christensen III* Phone: 264-8228
 Division: Alaska Court System Date: 02/14/91

Approved by: Arthur H. Snowden, II, Administrative Director *Stephanie Cole, for*
 Agency: Alaska Court System Date: 02/14/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

**PUBLIC EMPLOYEES' LOCAL
71, Appellant,**

v.

STATE of Alaska, Appellee.

No. S-2726.

Supreme Court of Alaska.

June 9, 1989.

Unions appealed decision of Superior Court, Third Judicial District, Anchorage, Martha Beckwith, J. pro tem., affirming decision of State Labor Relations Agency which dismissed unfair labor practice charges filed against State. The Supreme Court, Burke, J., held that collective bargaining agreement to which State is party is subject to legislative approval of its monetary terms.

Affirmed.

**1. Administrative Law and Procedure
⊕800**

"Rational basis" test is standard applied on appeal of agency decision involving question of statutory interpretation, when issue involves agency expertise or the determination of fundamental policies within agency's statutory function.

**2. Administrative Law and Procedure
⊕800**

Reviewing court can independently review decision of agency and substitute its own judgment when statutory interpretation does not involve agency expertise, or the agency's specialized knowledge and experience would not be particularly probative.

3. Labor Relations ⊕246

Collective bargaining agreement to which State is a party is subject to legislative approval of its monetary terms. AS 23.40.215.

1. CEA also entered into a collective bargaining agreement with the state providing for salary

4. Labor Relations ⊕179

State did not violate its duty to bargain in good faith with employees' unions when governor sought budget cuts, where bargaining for pay raise was not among the reductions sought.

Kevin Dougherty, Anchorage, for appellant.

Virginia B. Ragle and Susan D. Cox, Asst. Attys. Gen., and Grace Berg Schaible, Atty. Gen., Juneau, for appellee.

OPINION

Before MATTHEWS, C.J., and RABINOWITZ, BURKE, COMPTON and MOORE, JJ.

BURKE, Justice.

I. INTRODUCTION

Public Employees Local 71 (Local 71) and Confidential Employees Association (CEA) appeal the decision of the superior court, affirming the decision of the State, Labor Relations Agency (Agency), which dismissed the unfair labor practice charges filed against the state. The first issue on appeal is whether a collective bargaining agreement is subject to legislative approval of its monetary terms. The second issue is whether the state violated its duty to bargain in good faith.

II. FACTS

On June 4, 1984, Local 71 entered into a collective bargaining agreement with the state, which was in effect from January 1, 1984, through December 31, 1986. The terms of the contract called for salary increases of 0% during the first fiscal year of the contract (July 16, 1984—July 16, 1985), 5% during the second fiscal year (July 16, 1985—July 16, 1986), and 3.8% during the third fiscal year (July 16, 1986—July 16, 1987).¹

In 1985, the legislature appropriated the necessary funds for the 5% salary increase. However, the legislature also adopted Leg-

increases. CEA joins in Local 71's arguments.

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Local 71 (Local 71) and Association (CEA) the superior court of the State, Labor Agency), which dismissed the unfair labor practice charges. The first issue on collective bargaining legislative approval. The second issue is its duty to bar-

Local 71 entered into an agreement with the State from January 1, 1984 to July 31, 1986. The agreement called for salary increases in the first fiscal year of 1984—July 16, 1985), the second fiscal year (July 16, 1985—July 16, 1986) of 3.8% during the second year (July 16, 1986—July 16, 1987).

The legislature appropriated the 3.8% salary increase. The legislature also adopted Leg-

Local 71's arguments.

islative Resolution No. 19, which stated "that the Alaska State Legislature will not fund the monetary terms of the existing contracts for future years" and directed the parties to renegotiate the monetary terms proposed for fiscal year 1987. The state and unions were unable to renegotiate the salary increases.

At the beginning of the 1985 legislative session, the governor requested funding for the 3.8% salary increase in House Bill 500. Subsequently, after a projected revenue decline, the governor submitted to the legislature a revised operating budget consisting of \$120,000,000 in proposed reductions. The reductions did not refer to the 3.8% pay increase. In 1986, the legislature refused to fund the 3.8% salary increase.²

On April 17, 1986, Local 71 filed an unfair labor practice charge against the State of Alaska. A hearing was held on July 18, 1987. On October 21, 1986, the agency issued its order dismissing the unfair labor practice charge. Local 71 appealed. The superior court affirmed the agency's dismissal of the unfair labor practice charge. This appeal followed.

III. STANDARD OF REVIEW

[1] When an appeal of an agency decision involves a question of statutory interpretation one of two standards will apply. *Tesoro Alaska Petroleum Co. v. Kenai*

2. The legislature stated in section 20 of the budget act:

Failure of the legislature to adopt a separate appropriation item for the pay raise constitutes rejection of the monetary terms of the collective bargaining agreements in accordance with AS 23.40.215.

AS 23.40.215 is set forth in full at note 3.

3. AS 23.40.215 provides:

(a) The monetary terms of any agreement entered into under the Public Employment Relations Act are subject to funding through legislative appropriation.

(b) The Department of Administration shall submit the monetary terms of an agreement to the legislature within 10 legislative days after the agreement of the parties, if the legislature is in session, or within 10 legislative days after the convening of the next regular session. The legislature shall advise the parties by concurrent resolution if it approves or disapproves of the monetary terms within 60

Pipe Line Co., 746 P.2d 896 (Alaska 1987). The "rational basis" test is used when the issue involves agency expertise or the determination of fundamental policies within the agency's statutory function. *Id.* at 903. If the agency's decision is supported by the facts and has a reasonable basis in the law, the decision will be upheld. *Id.*

[2] However, when the statutory interpretation does not involve agency expertise, or the agency's specialized knowledge and experience would not be particularly probative, the reviewing court can independently review the decision and substitute its own judgment. *Id.*

IV. DISCUSSION

A. Legislative Approval

[3] The first issue is whether a collective bargaining agreement is subject to legislative approval of its monetary terms. This issue is a question of statutory interpretation and should be reviewed under the independent judgment standard. Alaska Statute 23.40.215(a) provides that the "monetary terms of any agreement entered into under the Public Employment Relations Act are subject to funding through legislative appropriation."³ The initial approval of the monetary terms of any agreement is a "nonbinding, advisory expression of legislative intent."⁴ AS 23.40.215(b).

legislative days after the agreement is submitted to the legislature. The approval of the monetary terms of an agreement under this subsection is a nonbinding, advisory expression of legislative intent. If within 60 legislative days after the agreement is submitted the legislature advises the parties by concurrent resolution that it disapproves the monetary terms of the agreement, the parties may resume negotiations.

4. In its brief, Local 71 relied solely on *Boston Teachers Union, Local 66 v. School Committee of Boston*, 386 Mass. 197, 434 N.E.2d 1258 (1982). In *Boston Teachers*, the teachers' union sought declaratory and injunctive relief to compel the mayor to submit a budget to the city council which would provide appropriations for the salary increases in the second year of a collective bargaining agreement. The Massachusetts court held that approval by the legislature of the monetary terms of the contract was statutorily required throughout the contract's three-year term:

Additionally, under Alaska's constitutional system funding of an agreement is constitutionally relegated to the legislature. Alaska Const. art. IX, § 13. The Public Employment Relations Act recognizes this constitutional requirement in AS 23.40.215(a).

From our independent review of the statute, it is clear that the monetary terms of a collective bargaining agreement are not effective until the funds are appropriated by the legislature.⁵ Each year the monetary terms of a collective bargaining agreement are subject to independent legislative approval.

B. Duty to Bargain in Good Faith

[4] The second issue is whether the state violated its duty to bargain in good

We think that the requirement in § 7(b), that the employer submit a request to the appropriate legislative body for an appropriation sufficient to fund the cost items of the agreement, applies only to the funds needed in the first year of the agreement, and that an appropriation funding the first year of the contract constitutes an approval by the legislative body of the entire agreement. The context of this provision suggests that this is the proper interpretation. . . . In order for § 7(b) to be construed consistently with § 7(a), authorizing contracts of three years' duration, the statute must be read as contemplating an initial approval of the contract by the legislative body, followed by appropriations as a matter of course in the succeeding years of the contract.

Id. at 1263. See Mass.G.L. c. 150E § 7.

The Massachusetts court also found support for its position in the legislative history of the statute, which provided that if there is a conflict between the terms of a collective bargaining agreement and the statute, the terms of the agreement prevail. *Id.* at 1263. Based on *Bos-*

ton Teachers, Local 71 asserts that once the legislature approves the monetary terms of the first year of a collective bargaining agreement, the legislature must fund the subsequent years. However, *Boston Teachers* is distinguishable from the case at hand because the governing statutes in the two states are clearly different. Therefore, *Boston Teachers* is not persuasive.

The decision is AFFIRMED.



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5. The superior court for the first judicial district has also held that the monetary terms of an agreement are not enforceable until the legislature appropriates the required funding. *Alaska Public Employees Ass'n v. State*, No. 1JU 79 538 Civ. and *Public Employees' Local 71, AFL-CIO v. State*, No. 1JU 79 983 Civ. (Alaska Super., Ct. Dec. 24, 1979).

6. Additionally, Local 71 and CEA assert that the agency's decision is not supported by substantial evidence and that the agency failed to properly review whether the state supported the pay raise throughout the entire legislative session. Both of these arguments are without merit.

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ALASKA LEGISLATURE

High court proposes salary legislation

Justices seek law to curb political bickering over judges, commissioners' pay

By MATT KOHLMAN

ASSOCIATED PRESS

JUNEAU — Legislation that would have an independent commission set salaries for the governor, lieutenant governor, legislators, commissioners and judges has been proposed by the state's highest court.

The Alaska Supreme Court requested the legislation to end political bickering over pay raises, said Arthur Snowden, director of the Alaska Court System.

Under the proposal, the Public Officers Compensation Commission would be created to take the place of an advisory commission that recommends pay increases to the Legislature. Its suggestions often have gone unheeded by the Legislature out of fear of

voter backlash.

"The old salary commission has made a recommendation on legislative salaries over three years ago and no one's acted upon it," Snowden said Tuesday. "I would think the Legislature would like to get these type of salaries out of politics."

The Legislature last year approved the first wage hike since 1985 for state judges. The judiciary had argued for years that better salaries were needed to attract and retain the best judges.

"Over the last five years, we've lost 20 percent of our judiciary because of seemingly endless politics around this state," Snowden said.

Rep. David Finkelstein, D-Anchorage, said the Legislature likely will favor the new pro-

posal.

"We have to set the judges' salaries and we have to set our own," he said. "We are not particularly good at setting either. When you set your own salary how can you do it objectively?"

Sen. Paul Fischer, R-Soldotna, also expects legislators to endorse the measure. Fischer was one of five senators to oppose judicial raises last session.

He said, however, that he is leery about filling the proposed seven-member board mainly with people in high management positions.

"We'll get raises," Fischer said. "That's the bottom line. The Legislature knows that. They're not going to give you a cut."

Gov. Walter J. Hickel has not

yet studied the proposal and has no position on it, Hickel spokesman Ed Wicher said.

But Wicher said the administration is "not overjoyed" with the prospect of adding another commission to the state payroll while it tries to reduce the 162 boards already formed.

Snowden noted that the federal government and more than half the states have similar commissions.

House Bill 129 and Senate Bill 113 would set up a governor-appointed panel that would submit salaries, expenses and allowances to the Legislature every two years. The pay scales would become law within 60 days unless the Legislature passed a bill disapproving the orders.

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