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JUSE COMMITTEE REPORT

(7)

Date Referred: April 22, 1991

FURTHER REFERRALS:

Date of Committee Action: 5-10-91

The JUDICIARY Committee considered:

CSSB 86(JUD)

CS FOR SENATE BILL NO. 86 (JUDICIARY)

1991 REVISOR'S BILL

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

RECOMMENDATIONS:

be replaced with HCS CSSB 86 (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) _____

zero fiscal note _____

zero fiscal note(s) ALL 4-10-91

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
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[Signature]
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

№ L

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill Version: SB86

(S) Publish Date: 4/10/91

Revision Date: _____
Title: "An Act making corrective amendments to the Alaska Statutes...recommended by the revisor..."
Sponsor: Senate Rules Committee
Requestor: Senate Judiciary

Department Affected: All
BRU: _____
Component: _____

COMPONENT SERIAL NO:

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:

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Changes in CSSB 86 (Jud) have no fiscal impact. This fiscal note is appropriate.

Apr 08, 1991 W. S. S. S.
date Comte Aide (initial)

Prepared By: Pamela A. Stoops, Director
Division: Administrative Services

Pamela A. Stoops

Phone: 465-3850
Date: 4/5/91

Approved By: Warren W. Endicott, Executive Director
Agency: Legislative Affairs Agency

Warren W. Endicott

Date: 4/5/91

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

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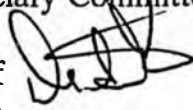
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MEMORANDUM

May 10, 1991

SUBJECT: HCS CSSB 86(Judiciary) (1991 Revisor's Bill)

TO: Representative Dave Donley
Chair, House Judiciary Committee

FROM: David R. Dierdorff 
Revisor of Statutes

This memorandum discusses HCS CSSB 86(Judiciary), the 1991 revisor's bill, which your committee reported out May 10, 1991.

The bill was prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

* * * shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of * * * the statute law of this state.

To assist in understanding the draft, I have summarized the contents by listing sections that have similar effects.

Sections that delete or repeal obsolete provisions: Sections 2, 4, 17, 30 - 35, 42, 57 - 60, and 62 delete or repeal provisions that have become obsolete either through other legislative action or the passage of time.

Sections that eliminate conflicts with other laws: Sections 11, 37 - 39, 43, 44, 46, 47, and 61 resolve conflicts between different statutory provisions or with court decisions.

Sections that correct errors or oversights: Sections 6, 7, 8, 9, 13, 14, 16, 19, 20 - 25, 27, 28, 36, 40, 41, and 56 correct errors or oversights that can not be corrected editorially.

Sections that improve the form or substance of the law: Sections 1, 3, 5, 10, 12, 15, 18, 26, 29, 45, and 48 - 55 propose amendments to improve the form or substance of the statute law of Alaska.

SECTIONAL ANALYSIS

Section 1. This section proposes an addition to the provisions applicable to all Alaska Statutes. Under standard rules of statutory drafting and interpretation, the term "includes" is used preceding a partial listing or illustrative list in a definition, while the term "means" is used to provide a complete meaning for the term defined. The Alaska Supreme Court has adopted this rule (Brown v. Wood, 575 P.2d 760, 767 (AK 1978)). The proposed provision would enact this standard rule, to clarify that it is not necessary to set out "but is not limited to" in other parts of the statutes.

Sec. 2. This deletes references to provisions that have been repealed.

Sec. 3. Adds a phrase that is necessary for clarity.

Sec. 4. Two old dates that are now meaningless are deleted from AS 08.04.120 in this bill section.

Sec. 5. Makes a reference more specific for clarity.

Sec. 6. Corrects an incorrect description of departmental powers under AS 08.01.100.

Sec. 7. Corrects what must have been an error, in that it is doubtful that the legislature intended to exempt opticians from the requirements of AS 08.72.725, which sets out certain safety standards for the materials used in eyeglass lenses.

Sec. 8. Corrects an obvious error.

Sec. 9. This section corrects an error in the 1987 law that amended AS 08.84.065(a) and also AS 08.84.030 and 08.84.032, the sections referenced in AS 08.84.065(a).

Secs. 10, 15, 48, 52, 54, and 55. Each of these sections substitutes a reference to the crime of unsworn falsification for a reference to the crime of perjury. The reason for this is that the underlying provisions do not require that the relevant statement be sworn. Consequently, a prosecution for perjury could not be maintained. A prosecution for unsworn falsification, however, would be appropriate.

Sec. 11. In Lundgren v. Gaudiane, 782 P.2d 285 (AK 1989), the Alaska Supreme Court ruled that AS 13.16.505, which provides that a decedent's judgment creditor

Representative Dave Donley

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may not execute on property of the decedent's estate under the judgment, prevails over an older, inconsistent statute, AS 09.35.060. The amendment proposed in this bill section codifies the court's ruling by providing notice in AS 09.35.060 that AS 13.16.505 controls.

Sec. 12. This section simply improves a reference to the rules of court to avoid confusion and eliminate the need to further change the reference as the rules themselves evolve.

Sec. 13. This section corrects a statutory reference in the list of mitigating factors to be considered when a person is being sentenced for a felony. The deleted reference is to a crime that is a misdemeanor, so it is irrelevant to the provision. The amendment eliminates any confusion that may result from the erroneous reference.

Sec. 14. In the fish and game code, a resident is required, by definition, to have resided in the state for at least one year. The amendment proposed in this bill section deletes language made redundant by the definition.

Sec. 16. This corrects a long-standing error in the definition of edible meat for the fish and game code. The error was brought to our attention by a staff biologist in the division of wildlife conservation.

Sec. 17. The federal statutes referenced in this provision have been repealed, and the amendment simply deletes the references and rewrites the provision appropriately.

Sec. 18. This amendment adds a definition of "commissioner" to the definitions for AS 18.10.

Sec. 19. This corrects three erroneous references in one of the provisions of the law regulating outdoor advertising along highways. The errors date back to the 1968 enactment of the provision. The reference should only be to those laws regulating outdoor advertising, not to the entire chapter, because the chapter includes provisions relating to the use of highway rights-of-way for utilities, and to encroachments, both of which have their own remedy provisions.

Secs. 20 and 21. Last year the legislature enacted ch. 50, making substantial changes in the insurance code. The amendments made in these two bill sections change a date to conform the provisions to secs. 84 and 86 of ch. 50, SLA 1990. The amendments were requested by the Department of Law on behalf of the Division of Insurance to correct a drafting oversight.

Sec. 22. The amendment corrects what we assume was a typographical error in ch. 50, SLA 1990, but which we believe requires legislative review rather than editorial correction. The amendment was reviewed by an assistant attorney general for the division of insurance.

Sec. 23. Corrects erroneous references that resulted when the standard valuation model law was adapted to Alaska, and clarifies certain vague language. The amendment has been reviewed by the division of insurance.

Sec. 24. Corrects an erroneous reference that resulted when the standard valuation model law was adapted to Alaska.

Sec. 25. Corrects an erroneous reference that resulted when the standard valuation model law was adapted to Alaska, and clarifies vague language. The amendment has been reviewed by the division of insurance.

Sec. 26. This proposed amendment conforms the language of AS 21.33.021(e) with similar language used in AS 21.33.030(d).

Sec. 27. Adds a reference to AS 21.36.360(n) in AS 21.36.360(q)(6). The subsection was inadvertently omitted from the provisions of (q), which sets out the various penalties for violations described in subsections (b) - (p). The division of insurance gave us direction on which of the eight possible penalty provisions was appropriate for a violation of (n). Subsection (n) makes it a crime for an agent to intentionally fail to report to the insurer the exact amount of the premium charged the insured and to maintain records of those premium charges.

Sec. 28. This substitutes a reference to "insurer" for an incorrect reference to a "corporation."

Sec. 29. This clarifies the first sentence of a required policy provision so that it is more readable and understandable.

Secs. 30 and 31. Delete obsolete references to dates.

Sec. 32. Deletes obsolete references to initial terms of governors of the Medical Indemnity Corporation of Alaska.

Secs. 33 and 34. Delete obsolete references to dates.

Sec. 35. This bill section corrects an error in the 1978 Act which enacted the revised motor vehicle code. The reference proposed for deletion should have been deleted

when the referenced subsection was dropped from the bill as it moved through the legislature.

Sec. 36. The reference to AS 28.35.034 that is being deleted is meaningless, because that section does not set out a penalty for refusal to submit to a chemical test of breath. This amendment corrects an apparent error in the 1982 enactment.

Sec. 37. This bill section proposes an amendment to AS 29.20.170(8), added by the 1985 municipal code revision, to harmonize a conflict between that provision and AS 29.20.140(a), a provision that was carried over from earlier law. AS 29.20.140(a) provides:

(a) A borough voter is eligible to be a member of the assembly and a city voter is eligible to be a member of the council. A member of the governing body who ceases to be a voter in the municipality immediately forfeits office.

Secs. 38 and 39. There is an apparent conflict between AS 29.35.050(a) and AS 29.35.200 - 29.35.220, in that the former suggests that any municipality may provide garbage collection and disposal services, while the latter statutes list that power only as to second class boroughs. The amendment to AS 29.35.050(a) is intended to clarify that the provision applies to all municipalities, notwithstanding anything that may be said in AS 29.35.200 - 29.35.220. The amendment to AS 29.35.210(a)(4) is intended to clarify that if a second class borough exercises the power, that power is subject to AS 29.35.050. Municipal law prior to the 1985 revision had a similar provision.

Secs. 40 and 41. The references in AS 34.40.120 and 34.40.130 are erroneous. The source of the problem appears to be erroneous references in the 1913 compiled laws of Alaska.

Sec. 42. This section deletes an obsolete date.

Secs. 43 and 44. In § 6, ch. 112, SLA 1980, the legislature amended AS 38.06.055(a) to change a reference to legislative approval of a royalty oil contract "by resolution" to approval "by enacting legislation." These sections of the bill would belatedly conform two related provisions of AS 38.06 to the 1980 change.

Secs. 45, 49 - 51, and 53. These bill sections amend a series of tax credit provisions to reflect the fact that the University of Alaska and perhaps other, private institutions, conduct a substantial portion of their fund-raising through a private, non-

profit corporation. These amendments were requested by the university to correct an apparent oversight in the original legislation.

Secs. 46, 47, and 61. In 1989, the legislature enacted a two-year residency requirement for the permanent fund dividend and longevity bonus programs. At the same time, provisions were enacted that provided for a one-year requirement in the event a court decided that the two-year requirement was invalid. A superior court did decide the question and that decision was not appealed. Consequently, the residency requirement for both programs is now one year. The amendments made in these bill sections simply conform the applicable statutory provisions to the one-year requirement to avoid confusion. Additionally, in sec. 62, the provisions that established the "stepped" residency dependent on court decisions are repealed as no longer needed.

Sec. 56. This section corrects an erroneous reference that derives from the original enactment.

Secs. 57 and 58. Each section amends a provision in AS 46.03.313. The first section deletes an obsolete date in subsection (b) and the second deletes a reference in subsection (d) to a provision that is repealed in sec. 62 of this draft.

Secs. 59 and 60. Delete a reference to a repealed provision.

Sec. 62. The repealer. The text of all provisions proposed for repeal is attached as Appendix "A". The reasons for the repeals are:

- AS 02.15.260(14) -- redundant to AS 01.10.060(4);
- AS 05.15.210(21) -- redundant to AS 01.10.060(4);
- AS 08.24.180 -- obsolete by passage of time;
- AS 08.42.020(b) -- obsolete by passage of time;
- AS 14.36.070(1) -- defines a word that is not used in the chapter;
- AS 14.36.070(2) -- redundant to AS 14.60.010;
- AS 14.36.070(4) -- redundant to AS 14.60.010;
- AS 21.72.170(5) -- section it refers to repealed in 1980;
- AS 21.75.340 -- redundant to AS 01.10.060(4);
- AS 21.88.060(b) -- obsolete by passage of time;
- AS 34.03.360(9) -- the definition of "person" is redundant to AS 01.10.060;
- AS 34.65.100(1) -- the term defined is not found in AS 34.65;
- AS 43.20.310 -- obsolete by passage of time;
- AS 43.20.320 -- redundant to AS 01.05.006 and other general laws;
- AS 43.23.005(e) -- see discussion relating to secs. 46, 47, and 61;

Representative Dave Donley

May 10, 1991

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AS 46.03.314 -- this provision is no longer applicable by its own terms and should be fully executed;

AS 46.03.790(g)(3) -- defines a word that is not used in the section;

AS 46.03.900(16) -- redundant to AS 01.10.060(4);

AS 47.45.010(d) -- see discussion relating to secs. 46, 47, and 61.

Sec. 63. Provides an immediate effective date.

DRD:mi

91-092.mai

APPENDIX "A"

The following is the text of each provision proposed for repeal in sec. 62, HCS
CSSB 86(Jud):

AS 02.15.260(14) --

(14) "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;

AS 05.15.210(21) --

(21) "municipality" means a political subdivision of the state that is a home rule or general law city or borough or a unified municipality;

AS 08.24.180 --

Sec. 08.24.180. PERSONS PRESENTLY ENGAGED IN COLLECTION BUSINESS.

(a) A person who is actively engaged in a collection agency business on May 1, 1968, and who wishes to continue to engage in this business shall apply for a license within 60 days after May 1, 1968.

(b) A person who applies or receives a license under (a) of this section is subject to all of the provisions of this chapter, except that in the person's application for a license the person is not required to comply with AS 08.24.120(a)(3) and (4).

AS 08.42.020(b) --

(b) A person who has actively practiced embalming in the state for at least one year and holds a valid embalmer's license issued in this state before January 1, 1977, shall be granted a license to practice embalming and may renew the license. A person who has actively practiced in the state as a funeral director for a period of at least one year shall be granted a license to practice as a funeral director and may renew that license.

AS 14.36.070(1) --

(1) "board" means the governing body of a school district;

AS 14.36.070(2) --

(2) "commissioner" means the commissioner of education;

AS 14.36.070(4) --

(4) "department" means the Department of Education;

AS 21.72.170(5) --

In addition to the provisions contained in the chapter, other chapters and provisions of this title shall apply to benevolent associations, to the extent applicable, as follows: * * *

(5) AS 21.21.320; * * *.

AS 21.75.340 --

Sec. 21.75.340. DEFINITIONS. In this chapter "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality.

AS 21.88.060(b) --

(b) The corporation is exempt from taxation under this section for a period of five years starting from July 1, 1978.

AS 34.03.360(9) --

(9) "person" includes an individual or organization;

AS 34.65.100(1) --

(1) "accessory" means physical evidence adjacent to a monument used for the future identification and restoration of a monument;

AS 43.20.310 --

Sec. 43.20.310. TAXABLE YEARS TO WHICH APPLICABLE. This chapter applies to (1) the taxable years beginning January 1, 1955; (2) fractions of fiscal years ending in 1955 computed from January 1, 1955; (3) taxable years beginning in 1955 and ending in 1956; and (4) all ensuing taxable years. Nothing in this chapter may be construed to affect a tax liability, action or cause of action incident to it which arose or might have arisen before January 1, 1955, under ch. 115 SLA 1949, as amended before March 28, 1955.

AS 43.20.320 --

Sec. 43.20.320. ARRANGEMENT AND CLASSIFICATION. No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of a particular section or provision or portion of this chapter, nor may the descriptive matter or headings relating to part, section, subsection or paragraph be given legal effect.

AS 43.23.005(e) --

(e) If a court finds the durational residency requirement under (a)(2) of this section is invalid and no appeal is pending, the residency requirement is one year. If a court finds the one year residency requirement is invalid and no appeal is pending, the residency requirement is the longest duration permitted by law. The department shall change the statement of eligibility under AS 43.23.015(b) as necessary to conform to this subsection.

AS 46.03.314 --

Sec. 46.03.314. REPORTS ON MANAGEMENT SITES AND FACILITIES. (a) Not later than July 1, 1987, the department shall submit to the governor and the legislature a preliminary report that includes

(1) proposals for the siting of hazardous waste management facilities in the state;

(2) proposals for the methods of financing and operating the facilities;

(3) proposals for the types of facilities that should be constructed, such as chemical processing facilities, incineration facilities, and transfer and storage facilities; and

(4) information about private hazardous waste management sites and facilities approved by the department.

(b) Not later than July 1, 1989, the department shall submit to the governor and the legislature a final report that includes

(1) identification of sites selected by the department for hazardous waste management facilities;

(2) recommendations for the methods of financing and operating facilities at the sites listed in (1) of this subsection;

(3) recommendations for the types of facilities that should be constructed at sites listed in (1) of this subsection; and

(4) information about private hazardous waste management sites and facilities approved by the department.

AS 46.03.790(g)(3) --

(3) "knowingly" has the meaning given in AS 11.81.900.

AS 46.03.900(16) --

(16) "municipality" means an organized borough or an incorporated city outside an organized borough, and includes all classes of boroughs and cities whether home rule or otherwise;

AS 47.45.010(d) --

(d) If a court finds the durational residency requirement under (a) of this section is invalid and no appeal is pending, the residency requirement is one year. If a court finds the one year residency requirement is invalid and no appeal is pending, the residency requirement is the longest duration permitted by law.

DIVISION OF LEGAL SERVICES

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MEMORANDUM

April 25, 1991

SUBJECT: Amendment for CSSB 86(Jud) (Work Order No. 7-LS0444D.1)

TO: Representative Dave Donley
Chair, House Judiciary Committee

FROM: David R. Dierdorff 
Revisor of Statutes

Enclosed is an amendment containing sections that should be added to CSSB 86(Jud), the 1991 revisor's bill. I apologize for the length of the amendment, but our editorial work on titles was delayed a bit this year and most of the proposed new sections derived from that work. In the sectional analysis, the references are to the bill section numbers used in the amendment unless otherwise noted.

SECTIONAL ANALYSIS

- Sec. 2.** This deletes references to provisions that have been repealed.
- Sec. 3.** Adds a phrase that is necessary for clarity.
- Sec. 5.** Makes a reference more specific for clarity.
- Sec. 6.** Corrects an incorrect description of departmental powers under AS 08.01.100.
- Sec. 7.** Corrects what must have been an error, in that it is doubtful that the legislature intended to exempt opticians from the requirements of AS 08.72.725, which sets out certain safety standards for the materials used in eyeglass lenses.
- Sec. 8.** Corrects an obvious error.
- Sec. 16.** This corrects a long-standing error in the definition of edible meat for the fish and game code. The error was brought to our attention by a staff biologist in the division of wildlife conservation.

Sec. 17. The federal statutes referenced in this provision have been repealed, and the amendment simply deletes the references and rewrites the provision appropriately.

Sec. 18. This amendment adds a definition of "commissioner" to the definitions for AS 18.10.

Sec. 19. This corrects three erroneous references in one of the provisions of the law regulating outdoor advertising along highways. The errors date back to the 1968 enactment of the provision. The reference should only be to those laws regulating outdoor advertising, not to the entire chapter, because the chapter includes provisions relating to the use of highway rights-of-way for utilities, and to encroachments, both of which have their own remedy provisions.

Sec. 23. Corrects erroneous references that resulted when the standard valuation model law was adapted to Alaska, and clarifies certain vague language. The amendment has been reviewed by the division of insurance.

Sec. 24. Corrects an erroneous reference that resulted when the standard valuation model law was adapted to Alaska.

Sec. 25. Corrects an erroneous reference that resulted when the standard valuation model law was adapted to Alaska, and clarifies vague language. The amendment has been reviewed by the division of insurance.

Sec. 27. Adds a reference to AS 21.36.360(n) in AS 21.36.360(q)(6). The subsection was inadvertently omitted from the provisions of (q), which sets out the various penalties for violations described in subsections (b) - (p). The division of insurance gave us direction on which of the eight possible penalty provisions was appropriate for a violation of (n). Subsection (n) makes it a crime for an agent to intentionally fail to report to the insurer the exact amount of the premium charged the insured and to maintain records of those premium charges.

Sec. 28. This substitutes a reference to "insurer" for an incorrect reference to a "corporation."

Sec. 29. This clarifies the first sentence of a required policy provision so that it is more readable and understandable.

Secs. 30 and 31. Delete obsolete references to dates.

Sec. 32. Deletes obsolete references to initial terms of governors of the Medical Indemnity Corporation of Alaska.

Representative Dave Donley

April 25, 1991

Page 3

Secs. 33 and 34. Delete obsolete references to dates.

Secs. 43 and 44. In § 6, ch. 112, SLA 1980, the legislature amended AS 38.06.055(a) to change a reference to legislative approval of a royalty oil contract "by resolution" to approval "by enacting legislation." These sections of the bill would belatedly conform two related provisions of AS 38.06 to the 1980 change.

Secs. 59 and 60. Delete a reference to a repealed provision.

Sec. 37 (of CSSB 86(Jud)). Finally, the amendment adds several provisions to the section that repeals obsolete laws. The reasons for the repeals are:

- AS 02.15.260(14) -- redundant to AS 01.10.060(4);
- AS 05.15.210(21) -- redundant to AS 01.10.060(4);
- AS 08.24.180 -- obsolete by passage of time;
- AS 08.42.020(b) -- obsolete by passage of time;
- AS 14.36.070(1) -- defines a word that is not used in the chapter;
- AS 14.36.070(2) -- redundant to AS 14.60.010;
- AS 14.36.070(4) -- redundant to AS 14.60.010;
- AS 21.72.170(5) -- section it refers to repealed in 1980;
- AS 21.75.340 -- redundant to AS 01.10.060(4);
- AS 21.88.060(b) -- obsolete by passage of time;
- AS 46.03.790(g)(3) -- defines a word that is not used in the section;
- AS 46.03.900(16) -- redundant to AS 01.10.060(4).

The full text of provisions proposed for repeal is attached hereto as Appendix "A".

APPENDIX "A"

The following is the text of each provision proposed for repeal in amendment D.1 to CSSB 86(Jud):

AS 02.15.260(14) --

(14) "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;

AS 05.15.210(21) --

(21) "municipality" means a political subdivision of the state that is a home rule or general law city or borough or a unified municipality;

AS 08.24.180 --

Sec. 08.24.180. PERSONS PRESENTLY ENGAGED IN COLLECTION BUSINESS.

(a) A person who is actively engaged in a collection agency business on May 1, 1968, and who wishes to continue to engage in this business shall apply for a license within 60 days after May 1, 1968.

(b) A person who applies or receives a license under (a) of this section is subject to all of the provisions of this chapter, except that in the person's application for a license the person is not required to comply with AS 08.24.-120(a)(3) and (4).

AS 08.42.020(b) --

(b) A person who has actively practiced embalming in the state for at least one year and holds a valid embalmer's license issued in this state before January 1, 1977, shall be granted a license to practice embalming and may renew the license. A person who has actively practiced in the state as a funeral director for a period of at least one year shall be granted a license to practice as a funeral director and may renew that license.

AS 14.36.070(1) --

(1) "board" means the governing body of a school district;

AS 14.36.070(2) --

(2) "commissioner" means the commissioner of education;

AS 14.36.070(4) --

(4) "department" means the Department of Education;

AS 21.72.170(5) --

In addition to the provisions contained in the chapter, other chapters and provisions of this title shall apply to benevolent associations, to the extent applicable, as follows: * * *

(5) AS 21.21.320; * * *.

AS 21.75.340 --

Sec. 21.75.340. DEFINITIONS. In this chapter "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality.

AS 21.88.060(b) --

(b) The corporation is exempt from taxation under this section for a period of five years starting from July 1, 1978.

AS 46.03.790(g)(3) --

(3) "knowingly" has the meaning given in AS 11.81.900.

AS 46.03.900(16) --

(16) "municipality" means an organized borough or an incorporated city outside an organized borough, and includes all classes of boroughs and cities whether home rule or otherwise;

DRD:gc
91-237.glc

Enclosure

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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Mail Stop 3101

MEMORANDUM

April 24, 1991

SUBJECT: CSSB 86(Judiciary) - 1991 Revisor's Bill

TO: Representative Dave Donley
Chair, House Judiciary Committee
Attn: Laurie Otto

FROM: David R. Dierdorff 
Revisor of Statutes

Enclosed is the sectional analysis prepared for SB 86. It was published as Senate Journal Supplement No. 2, January 25, 1991. The only change made by the Senate was to delete bill section 8, relating to the terms of members of the boards of fish and game. Consequently, the original sectional may still be used. Simply consider the narrative for sections 9 - 39 to be the narrative for sections 8 - 38 of CSSB 86(Jud).

I am putting the finishing touches on an amendment which incorporates technical amendments dealing with problems discovered in four of the titles we are reviewing this year (AS 08, AS 18, AS 21, and AS 46), and a few additional items that came to our attention after the bill was introduced. I will have that amendment and a sectional analysis of it for you by the end of the week.

If I may be of further assistance, please advise.

DRD:pl
91-300.plm

Enclosure

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MEMORANDUM

January 23, 1991

SUBJECT: 1991 Revisor's Bill (W.O. 7-LS0444\A)
TO: Senator Bettye Fahrenkamp
Chair, Legislative Council
FROM: David R. Dierdorff
Revisor of Statutes

This memorandum discusses the enclosed 1991 revisor's bill (W.O. 7-LS0444\A). I would appreciate your consideration of the draft at the next council meeting in order that the bill may be introduced at the earliest opportunity.

The bill was prepared under AS 01.03.036, which provides, in part, that the revisor of statutes shall

* * * prepare for submission to the legislature legislation for the correction or removal of * * * deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of * * * the statute law of this state.

To assist in understanding the draft, I have summarized the contents by listing sections that have similar effects.

Sections that delete or repeal obsolete provisions: Sections 2, 16, 22, 35, 36 and 38 delete or repeal provisions that have become obsolete either through other legislative action or the passage of time.

Sections that eliminate conflicts with other laws: Sections 5, 17 - 19, 24, 25, and 37 resolve conflicts between different statutory provisions or with court decisions.

Sections that correct errors or oversights: Sections 3, 7 - 9, 11 - 13, 15, 20, 21, and 34 correct errors or oversights that can not be corrected editorially.

Sections that improve the form or substance of the law: Sections 1, 4, 6, 10, 14, 23, and 26 - 33 propose amendments to improve the form or substance of the statute law of Alaska.

SECTIONAL ANALYSIS

Section 1. This section proposes an addition to the provisions applicable to all Alaska Statutes. Under standard rules of statutory drafting and interpretation, the term "includes" is used preceding a partial listing or illustrative list in a definition, while the term "means" is used to provide a complete meaning for the term defined. The Alaska Supreme Court has adopted this rule (Brown v. Wood, 575 P.2d 760, 767 (AK 1978)). The proposed provision would enact this standard rule, to clarify that it is not necessary to set out "but is not limited to" in other parts of the statutes.

Sec. 2. Two old dates that are now meaningless are deleted from AS 08.04.120 in this bill section.

Sec. 3. This section corrects an error in the 1987 law that amended AS 08.84.065(a) and also AS 08.84.030 and 08.84.032, the sections referenced in AS 08.84.065(a).

Secs. 4, 10, 26, 30, 32, and 33. Each of these sections substitutes a reference to the crime of unsworn falsification for a reference to the crime of perjury. The reason for this is that the underlying provisions do not require that the relevant statement be sworn. Consequently, a prosecution for perjury could not be maintained. A prosecution for unsworn falsification, however, would be appropriate.

Sec. 5. In Lundgren v. Gaudiane, 782 P.2d 285 (AK 1989), the Alaska Supreme Court ruled that AS 13.16.505, which provides that a decedent's judgment creditor may not execute on property of the decedent's estate under the judgment, prevails over an older, inconsistent statute, AS 09.35.060. The amendment proposed in this bill section codifies the court's ruling by providing notice in AS 09.35.060 that AS 13.16.505 controls.

Sec. 6. This section simply improves a reference to the rules of court to avoid confusion and eliminate the need to further change the reference as the rules themselves evolve.

Sec. 7. This section corrects a statutory reference in the list of mitigating factors to be considered when a person is being sentenced for a felony. The deleted reference is to a crime that is a misdemeanor, so it is irrelevant to the provision. The amendment eliminates any confusion that may result from the erroneous reference.

Sec. 8. When the boards of fisheries and game were created in 1975, and the related laws substantially revised, the provisions relating to the term of a member of the old

board of fish and game (and, consequently, the new boards), were deleted. Our review of the legislative history and actual practice from 1975 until the present time suggests strongly that the deletion (or failure to enact a new provision) was an oversight and that the legislature intended that the terms be three years. This bill section adds appropriate language for the term of a member of each board. Because this ratifies existing practice, an applicability provision may not be required. However, it should be considered.

Sec. 9. In the fish and game code, a resident is required, by definition, to have resided in the state for at least one year. The amendment proposed in this bill section deletes language made redundant by the definition.

Secs. 11 and 12. Last year the legislature enacted ch. 50, making substantial changes in the insurance code. The amendments made in these two bill sections change a date to conform the provisions to secs. 84 and 86 of ch. 50, SLA 1990. The amendments were requested by the Department of Law on behalf of the Division of Insurance to correct a drafting oversight.

Sec. 13. The amendment corrects what we assume was a typographical error in ch. 50, SLA 1990, but which we believe requires legislative review rather than editorial correction.

Sec. 14. This proposed amendment conforms the language of AS 21.33.021(e) with similar language used in AS 21.33.030(d).

Sec. 15. This bill section corrects an error in the 1978 Act which enacted the revised motor vehicle code. The reference proposed for deletion should have been deleted when the referenced subsection was dropped from the bill as it moved through the legislature.

Sec. 16. The reference to AS 28.35.034 that is being deleted is meaningless, because that section does not set out a penalty for refusal to submit to a chemical test of breath. This amendment corrects an apparent error in the 1982 enactment.

Sec. 17. This bill section proposes an amendment to AS 29.20.170(8), added by the 1985 municipal code revision, to harmonize a conflict between that provision and AS 29.20.140(a), a provision that was carried over from earlier law. AS 29.20.140(a) provides:

(a) A borough voter is eligible to be a member of the assembly and a city voter is eligible to be a member of the council. A member of the governing body who ceases to be a voter in the municipality immediately forfeits office.

Secs. 18 and 19. There is an apparent conflict between AS 29.35.050(a) and AS 29.35.200 - 29.35.220, in that the former suggests that any municipality may provide garbage collection and disposal services, while the latter statutes list that power only as to second class boroughs. The amendment to AS 29.35.050(a) is intended to clarify that the provision applies to all municipalities, notwithstanding anything that may be said in AS 29.35.200 - 29.35.220. The amendment to AS 29.35.210(a)(4) is intended to clarify that if a second class borough exercises the power, that power is subject to AS 29.35.050. Municipal law prior to the 1985 revision had a similar provision.

Secs. 20 and 21. The references in AS 34.40.120 and 34.40.130 are erroneous. The source of the problem appears to be erroneous references in the 1913 compiled laws of Alaska.

Sec. 22. This section deletes an obsolete date.

Secs. 23, 27 - 29, and 31. These bill sections amend a series of tax credit provisions to reflect the fact that the University of Alaska, and perhaps other, private institutions, conduct a substantial portion of their fund-raising through a private, non-profit corporation. These amendments were requested by the university to correct an apparent oversight in the original legislation.

Secs. 24, 25, and 37. In 1989, the legislature enacted a two-year residency requirement for the permanent fund dividend and longevity bonus programs. At the same time, provisions were enacted that provided for a one-year requirement in the event a court decided that the two-year requirement was invalid. A superior court did decide the question and that decision was not appealed. Consequently, the residency requirement for both programs is now one year. The amendments made in these bill sections simply conform the applicable statutory provisions to the one-year requirement to avoid confusion. Additionally, in sec. 38, the provisions that established the "stepped" residency dependent on court decisions are repealed as no longer needed.

Sec. 34. This section corrects an erroneous reference that derives from the original enactment.

Secs. 35 and 36. Each section amends a provision in AS 46.03.313. The first section deletes an obsolete date in subsection (b) and the second deletes a reference in subsection (d) to a provision that is repealed in sec. 38 of this draft.

Sec. 38. The repealer. The text of all provisions proposed for repeal is attached as Appendix "A". The reasons for the repeals are:

AS 34.03.360(9) -- the definition of "person" is redundant to AS 01.10.060.

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AS 34.65.100(1) -- the term defined is not found in AS 34.65.

AS 43.20.310 -- obsolete by passage of time.

AS 43.20.320 -- redundant to AS 01.05.006 and other general laws.

AS 43.23.005(e) -- see discussion relating to secs. 24, 25, and 37.

AS 46.03.314 -- this provision is no longer applicable by its own terms and should be fully executed.

AS 47.45.010(d) -- see discussion relating to secs. 24, 25, and 37.

Sec. 39. Provides an immediate effective date.

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Enclosure

APPENDIX "A"

Statutory Provisions Proposed for Repeal:

AS 34.03.360(9) --

(9) "person" includes an individual or organization;

AS 34.65.100(1) --

(1) "accessory" means physical evidence adjacent to a monument used for the future identification and restoration of a monument;

AS 43.20.310 --

Sec. 43.20.310. TAXABLE YEARS TO WHICH APPLICABLE. This chapter applies to (1) the taxable years beginning January 1, 1955; (2) fractions of fiscal years ending in 1955 computed from January 1, 1955; (3) taxable years beginning in 1955 and ending in 1956; and (4) all ensuing taxable years. Nothing in this chapter may be construed to affect a tax liability, action or cause of action incident to it which arose or might have arisen before January 1, 1955, under ch. 115 SLA 1949, as amended before March 28, 1955.

AS 43.20.320 --

Sec. 43.20.320. ARRANGEMENT AND CLASSIFICATION. No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of a particular section or provision or portion of this chapter, nor may the descriptive matter or headings relating to part, section, subsection or paragraph be given legal effect.

AS 43.23.005(e) --

2 (e) If a court finds the duration^{al} residency requirement under (a)(2) of this section is invalid and no appeal is pending, the residency requirement is one year. If a court finds the one year residency requirement is invalid and no appeal is pending, the residency requirement is the longest duration permitted by law. The department shall change the statement of eligibility under AS 43.23.015(b) as necessary to conform to this subsection.

AS 46.03.314 --

3 Sec. 46.03.314. REPORTS ON MANAGEMENT SITES AND FACILITIES. (a) Not later than July 1, 1987, the department shall submit to the governor and the legislature a preliminary report that includes

(1) proposals for the siting of hazardous waste management facilities in the state;

(2) proposals for the methods of financing and operating the facilities;

(3) proposals for the types of facilities that should be constructed, such as chemical processing facilities, incineration facilities, and transfer and storage facilities; and

(4) information about private hazardous waste management sites and facilities approved by the department.

(b) Not later than July 1, 1989, the department shall submit to the governor and the legislature a final report that includes

(1) identification of sites selected by the department for hazardous waste management facilities;

(2) recommendations for the methods of financing and operating facilities at the sites listed in (1) of this subsection;

(3) recommendations for the types of facilities that should be constructed at sites listed in (1) of this subsection; and

(4) information about private hazardous waste management sites and facilities approved by the department.

AS 47.45.010(d) --

(d) If a court finds the durational residency requirement under (a) of this section is invalid and no appeal is pending, the residency requirement is one year. If a court finds the one year residency requirement is invalid and no appeal is pending, the residency requirement is the longest duration permitted by law.

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