

HB 129

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

April 28, 1992

SUBJECT: Report from Committee Without a "Do Pass" Recommendation
(HB129)

TO: Senator Pat Pourchot, Co-chair
Senate Finance Committee

FROM: Tamara Brandt Cook *TBC*
Director

HB 129 was originally referred to the State Affairs Committee and the Finance Committee. The State Affairs Committee waived the referral and the Finance Committee reported the bill out with "do pass" recommendations by four members. (Senate Journal, 5/19/91, page 1489) The Rules Committee offered a committee substitute, but the bill was not taken up on the floor. Instead, it was returned to the rules committee, then withdrawn from that committee and re-referred to the Finance Committee. (Senate Journal, 1/31/92, Page 1937) I have been informed that the bill has now been reported out of the Finance Committee without any "do pass" recommendations.

You have asked how Uniform Rule 24(b) applies in this situation. It provides:

(b) When a bill is reported back by a committee without at least one "Do Pass", unless the bill has a subsequent referral or referrals of record, the presiding officer shall put the question "Shall the bill be referred to the Rules Committee for placement on the calendar for second reading notwithstanding the report of the committee(s)?" If the bill has a subsequent referral or referrals of record, the question shall not be put until the last committee has reported and unless all reports are without at least one "Do Pass". The question is debatable and if a majority of the membership of the house votes in the negative, the bill is lost.

In my opinion, HB 129 has now been reported out by a committee without at least one "do pass" recommendation. There are no subsequent referrals, so it would be proper for the presiding officer to put the question of sending the bill to Rules

Senator Pat Pourchot
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Page 2

Committee for calendaring to the body. The fact that the Finance Committee reported the same bill out last session with "do pass" recommendations should not change this result. Upon regaining possession of the bill, the committee has, apparently, changed its position on the bill. Even if the latest action was taken by the Finance Committee without expressly rescinding the prior action (reporting out a Finance SCS "do pass"), then the latest action probably impliedly rescinded the previous action. The Finance Committee is the only committee that has considered the bill and none of its members are now recommending "do pass." So, unless another committee of referral is added, HB 129 will have only been considered by a single committee and that committee has reported it out without a "do pass" recommendation for purposes of Uniform Rule 24(b).

TBC:gc
92-329.glc

TO: SENATOR ZHAROFF
CHAIR, SENATE RULES COMMITTEE

FROM: SENATOR POURCHOT
CO-CHAIR, SENATE FINANCE COMMITTEE

RE: HB 129, PUBLIC OFFICERS COMPENSATION COMMISSION

DATE: APRIL 28, 1992

The Senate Finance Committee moved SCS CSHB 129 (RULES) from committee today. Possible problems were noted in Section 16 as to effective dates. Page 4, lines 10,11 refer to the commission reporting its findings every even-numbered year no later than the 10th day of the regular session of the legislature. The bill needs to be reviewed in light of the effective dates so that if passed this year it will not conflict with election years. The bill was drafted based on projected passage in 1991. Thank you for considering this request.

SENATE FINANCE COMMITTEE REPORT

DATE: 1/31/92

FURTHER:

DATE TURNED INTO OFFICE: 4-28-92

The Finance Committee considered CS FOR HOUSE BILL NO. 129 (JUDICIARY) am

"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."

and recommends:

- [] replace with CS (FINANCE)
or [x] adopt previous 5 CS CS HB 129 (Rules)
[] attaches amendment(s)

- [x] same title
[] new title
[] technical title change (HB only)

- [] adopts Letter of Intent
[] further referral to the

- [] do pass
[] do not pass
[] no recommendation
[x] individual recommendations

NEW FISCAL NOTES: Dept/Date

- [x] zero fiscal notes DOA 4-21-92
Courts 2-19-92
LAA 2-18-92
[x] fiscal notes Gov. 60.9 2-18-92

PREVIOUS FISCAL NOTES: Dept/Date

- [] zero fiscal notes
[] fiscal notes

[] appropriation--no fiscal note

DO PASS:

Al Adams

OTHER RECOMMENDATIONS:

Handwritten signatures and notes under OTHER RECOMMENDATIONS, including 'no Rec' and 'No REC'.

1. [Signature]

Co-Chair: Signature/Recommendation

2. [Signature]

Co-Chair: Signature/Recommendation

FISCAL NOTE

STATE OF ALASKA

BILL NO. SCSCS HB 129 (Rules)

1992 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Administration

Title: Public Officers Compensation Commission

BRU: Personnel

Sponsor: Rules by Request (of Court System)

Component: Personnel

Requestor: _____

COM - ENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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 FUND SOURCE:	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 FUND SOURCE:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

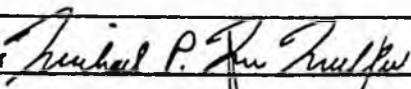
POSITIONS:

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

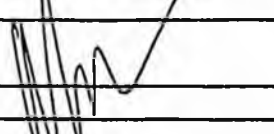
ANALYSIS: (Attach a separate page if necessary.)

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: R. H. King, Director 
 Division: Personnel/OEEO

Phone: 465-4430

Date: 1/21/92

Approved by Commissioner: Nancy Bear Usara 
 Agency: Administration

Date: 1/21/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill No. SCS CSHB 129

Revision Date: 02/19/92 Department Affected: Alaska Court System
 Title: An Act establishing the Public Officers Compensation Commission... BRU: Trial Courts
 Sponsor: By Rules by request Components:
 Requestor: Senate Finance COMPONENT SERIAL NO. 000 | 000 000 | 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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: 02/19/92

Approved by: Arthur H. Snowden, II, Administrative Director  ¹⁵⁷ Date: 02/19/92
 Agency: Alaska Court System

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

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO: SCS CSHB 129(RLS)

Revision Date: _____ Department Affected: Legislative Affairs Agency
 Title: An Act establishing the Public Officers BRU: Legislative Council
 Compensation Commission; relating to the compensation...
 Sponsor: House Rules Committee by Request Component: Salaries & Allowances
 Requestor: Senate Finance

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND SOURCE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE						
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.

Prepared By: Pamela A. Stoops, Director *Pamela A. Stoops* Phone: 465-3850
 Division: Administrative Services Date: 2/18/92

Approved By: Warren W. Endicott, Executive Director *Warren Endicott*
 Agency: Legislative Affairs Agency Date: 2/18/92

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

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SCSCSHB129 (Rules)

Revision Date: 2/18/92
 Title: "An Act establishing the Public Officers Compensation Commission..."
 Sponsor: House Rules Committee
 Requestor: _____

Department Affected: Office of the Governor
 BRU: Commissions and Special Offices
 Component: Public Officers Compensation Commission

COMPONENT SERIAL NO. N A

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	24.8	7.4	7.4	7.4	7.4	7.4
CONTRACTUAL	36.1	33.9	33.9	33.9	33.9	33.9
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	60.9	41.3	41.3	41.3	41.3	41.3

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	60.9	41.3	41.3	41.3	41.3	41.3
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	60.9	41.3	41.3	41.3	41.3	41.3

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis

Prepared By: Michael A. Nizich, Director *M. Nizich* Phone: 465-3616
 Division: Division of Administrative Services Date: 2/18/92
 Approved by Commissioner: D. Max Hodel, Chief of Staff *D. Hodel*
 Agency: Office of the Governor Date: 2/18/92

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.

** During review of SCSCSHB129(Rules) an error in the previous fiscal notes was detected. Commission meetings every other calendar year will not result in fluctuating fiscal year impact. FY 94 through FY 98 now reflect a continued level of fiscal impact.

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, and one meeting with two public teleconferences every other calendar 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

Subsequent years

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
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TOTAL TRAVEL: 7,356

CONTRACTUAL 36.1

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
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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

Subsequent years

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
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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

SENATE CS FOR CS FOR HOUSE BILL NO. 129 (RULES)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE

Offered: 5/21/91
 Referred: Today's Calendar

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

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

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

7 * Section 1. AS 22.05.140(a) is repealed and reenacted to read:

8 (a) The compensation of a supreme court justice shall be established by order of the
 9 Public Officers Compensation Commission.

10 * Sec. 2. AS 22.07.090(a) is repealed and reenacted to read:

11 (a) The compensation of a judge of the court of appeals shall be established by order of
 12 the Public Officers Compensation Commission. The compensation of a judge may not be
 13 diminished during the term of office, unless by general law applying to all salaried officers of

1 the state.

2 * Sec. 3. AS 22.10.190(a) is repealed and reenacted to read:

3 (a) The compensation of a superior court judge shall be established by order of the Public
4 Officers Compensation Commission.

5 * Sec. 4. AS 22.15.220(a) is repealed and reenacted to read:

6 (a) The compensation of a district court judge shall be established by order of the Public
7 Officers Compensation Commission.

8 * Sec. 5. AS 22.15.230 is amended to read:

9 Sec. 22.15.230. ADDITIONAL COMPENSATION. Subject to rule of the supreme court,
10 a [DISTRICT JUDGE OR] magistrate shall receive a per diem allowance and a transportation
11 allowance commensurate with that authorized for other state employees.

12 * Sec. 6. AS 24.10.100 is repealed and reenacted to read:

13 Sec. 24.10.100 SALARY OF LEGISLATORS. The salary for each member of the
14 legislature shall be established by order of the Public Officers Compensation Commission. The
15 commission may authorize per diem for legislators. The commission may also authorize
16 additional compensation for the president of the senate and the speaker of the house of
17 representatives.

18 * Sec. 7. AS 24.10.110 is repealed and reenacted to read:

19 Sec. 24.10.110. ADDITIONAL ALLOWANCES. The Public Officers Compensation
20 Commission may authorize an annual allowance for postage, stationary, stenographic services,
21 and other expenses for each member of the legislature.

22 * Sec. 8. AS 24.10.120 is amended to read:

23 Sec. 24.10.120. METHOD OF PAYMENT. Salaries, and, if authorized by the Public
24 Officers Compensation Commission, per diem [,] and additional allowances for members of the
25 legislature shall be paid by warrants drawn on vouchers approved by the legislative fiscal officer.
26 The legislative fiscal officer shall, by January 31 of each year, file with the legislature's fiscal
27 office a report of all vouchers approved for payment under this section during the preceding
28 calendar year. The report must include [SHALL PROVIDE], by legislator, the date of each
29 voucher, the amount paid, and the basis for approval for payment. The report is a public record.

30 * Sec. 9. AS 39.20.010 is repealed and reenacted to read:

31 Sec. 39.20.010. COMPENSATION OF GOVERNOR. The compensation of the governor

1 shall be established by order of the Public Officers Compensation Commission.

2 * Sec. 10. AS 39.20.030 is repealed and reenacted to read:

3 Sec. 39.20.030. COMPENSATION OF LIEUTENANT GOVERNOR. The compensation
4 of the lieutenant governor shall be established by order of the Public Officers Compensation
5 Commission.

6 * Sec. 11. AS 39.20.050 is amended to read:

7 Sec. 39.20.050. EXCLUSIVE COMPENSATION. The compensation established by
8 order of the Public Officers Compensation Commission and other benefits established
9 [FIXED] by law for the governor and lieutenant governor are compensation [IS] in full for all
10 services rendered by each of them in any official capacity or employment whatsoever during their
11 respective terms of office, and shall be paid throughout their respective terms of office unless the
12 office becomes vacant.

13 * Sec. 12. AS 39.20.080(a) is repealed and reenacted to read:

14 (a) The compensation of the head of each principal executive department shall be
15 established by order of the Public Officers Compensation Commission.

16 * Sec. 13. AS 39.23 is amended by adding a new section to read:

17 Sec. 39.23.201. COMPENSATION COMMISSION ESTABLISHED. (a) The Public
18 Officers Compensation Commission is established in the Office of the Governor. The
19 commission is composed of seven members appointed by the governor. Members serve staggered
20 terms of four years. Commission membership shall include at least one business executive, one
21 person with experience in public administration, one person with experience in personnel
22 management, one economist, one lawyer, and a former elected public officer of the state. A
23 vacancy shall be filled for the balance of the unexpired term. A commission member may serve
24 no more than two complete consecutive terms.

25 (b) The commission shall elect a member to chair its meetings. A majority of the
26 commission members constitutes a quorum to transact business. The affirmative vote of four
27 members is required to approve the commission's report or an order on compensation.

28 (c) The commission shall meet every other year at the call of the chair. Notice of a
29 meeting shall be mailed to each member at least 15 days before the date scheduled for the
30 meeting.

31 (d) The commission shall hold a public hearing to discuss its findings before submitting

1 its report or an order to the legislature.

2 * Sec. 14. AS 39.23.230(a) is amended to read:

3 (a) If requested by the commission, the Department of Administration [LEGISLATIVE
4 AFFAIRS AGENCY] shall provide staff for the commission.

5 * Sec. 15. AS 39.23 is amended by adding a new section to read:

6 Sec. 39.23.241. DUTIES OF THE COMMISSION. (a) The commission shall review
7 the compensation of the governor, lieutenant governor, members of the legislature, heads of the
8 principal departments of the executive branch of state government, supreme court justices, judges
9 of the court of appeals, judges of the superior court, and district court judges. ~~the commission~~

10 ~~shall submit a report on its findings every even-numbered year no later than the 10th day of the~~
11 ~~regular session of the legislature.~~ A commission member who does not concur in the report may
12 file a minority report.

13 (b) The commission may submit an order with the report making changes to the
14 compensation of a public officer. Before submitting a report or order on compensation, the
15 commission shall give reasonable public notice of its preliminary findings, solicit public
16 comments, and give due regard to the public comments.

17 (c) An order changing the compensation of a public officer does not take effect if a bill
18 disapproving the order in its entirety is enacted into law within 60 days after the order is
19 submitted to the legislature. Unless disapproved, an order increasing the compensation of a
20 public officer subject to funding through legislative appropriation and, for public officers other
21 than legislators, takes effect on the later of the first day of the next fiscal year and the effective
22 date of the first appropriation to fund the increase. ~~For legislators, an order increasing~~

23 ~~compensation takes effect on the later of the first day of the next regular legislative session and~~
24 ~~the effective date of the first appropriation to fund the increase.] Unless disapproved and except~~

25 as provided in (d) of this section, an order decreasing the compensation of a public officer other
26 than a legislator takes effect on the first day of the next fiscal year and an order decreasing the
27 compensation of a legislator takes effect on the first day of the next regular legislative session.

28 (d) An order decreasing the compensation of persons currently holding office as the
29 governor, lieutenant governor, justices of the supreme court, or judges of the court of appeals,
30 superior court, or district court may not take effect until the later of July 1 of the next fiscal year
31 and the effective date of a general law applying to all salaried officers of the state that diminishes

DC in
Crosby

1 compensation with which the order is consistent.

2 * Sec. 16. AS 39.23 is amended by adding a new section to read:

3 Sec. 39.23.251. FILING WITH LIEUTENANT GOVERNOR AND CERTIFICATION.

4 The commission shall, upon transmitting an order on compensation to the legislature, file the
5 order in the office of the lieutenant governor. When the order becomes effective, the commission
6 shall certify the copy of the order on file in the office of the lieutenant governor.

7 * Sec. 17. AS 39.23.260 is amended to read:

8 Sec. 39.23.260. POLICY OF THE LEGISLATURE. It is the policy of the legislature
9 that the commission determine an equitable rate and form of compensation [, BENEFITS, AND
10 ALLOWANCES] for the governor, lieutenant governor, members of the legislature, heads
11 of the principal departments of the executive branch of state government, supreme court
12 justices, judges of the court of appeals, judges of the superior court, and district court
13 judges. In determining the compensation for each office, the commission shall consider the
14 following factors:

15 (1) the skill required;

16 (2) the time required;

17 (3) the opportunity for other earned income;

18 (4) the value of public services as performed in other states and in the federal
19 government;

20 (5) the value of similar services when performed in the private sector of this
21 state and in other states based on the responsibility and discretion required in the office;

22 (6) the reasonable expenses incurred in performing the public service;

23 (7) the percentage change in the Consumer Price Index for Anchorage,
24 Alaska, as determined by the United States Department of Labor, Bureau of Labor
25 Statistics since the last compensation adjustment;

26 (8) the compensation presently received by the public officers and all other
27 benefits received;

28 (9) the interests and welfare of the public and the financial ability of the state
29 to meet the costs;

30 (10) the geographic cost-of-living based on a public officer's primary place
31 of assignment;

1 (11) the cost-of-living differential between Anchorage, Alaska, and other
2 locations in the United States; and

3 (12) other factors that are normally or traditionally considered in the
4 determination of compensation [LEGISLATORS].

5 * Sec. 18. AS 39.23 is amended by adding a new section to read:

6 Sec. 39.23.401. DEFINITIONS. In this chapter,

7 (1) "commission" means the Public Officers Compensation Commission;

8 (2) "compensation" means the salary, per diem, and allowances paid a public
9 officer.

10 * Sec. 19. AS 22.05.140(c); AS 22.10.190(c); and AS 22.15.220(d) are repealed.

11 * Sec. 20. AS 39.23.200, 39.23.240, 39.23.250, and 39.23.400 are repealed.

12 * Sec. 21. AS 24.10.101 and 24.10.105 are repealed.

13 * Sec. 22. Notwithstanding AS 39.05.055(5) and the provisions of AS 39.23.201, enacted by sec. 13
14 of this Act, one of the initial members appointed to the Public Officers Compensation Commission shall
15 serve a one-year term, two members shall serve two-year terms, two members shall serve three-year
16 terms, and two members shall serve four-year terms.

17 ~~Notwithstanding~~ Notwithstanding the requirement in AS 39.23.201(c), enacted by sec. 13 of this Act, that
18 the commission meet every other year, and the requirement in AS 39.23.241(a), enacted by sec. 15 of
19 this Act, that the Public Officers Compensation Commission ~~submit~~ it reports in even-numbered years, the
20 commission shall submit its first report concerning the compensation of public officers no later than the
21 10th day of the regular session of the legislature immediately following the enactment of this Act.
22 Thereafter, the commission shall meet in odd-numbered years under AS 39.23.201(c) and submit reports
23 in even-numbered years under AS 39.23.241(a).

24 * Sec. 24. When the Public Officers Compensation Commission files its first order changing the
25 compensation of justices of the supreme court or judges of the court of appeals, superior court, or district
26 court, it shall address the compensation of all of those public offices in the order. The commission shall
27 include both the governor and the lieutenant governor in the first order it issues addressing the
28 compensation of either of those public offices.

29 * Sec. 25. Sections 1 - 5 and 19 of this Act take effect on the date that the first order changing the
30 compensation of justices and judges issued by the Public Officers Compensation Commission takes
31 effect.

See Sec. 15

1 * Sec. 26. Sections 6 - 8 and 21 of this Act take effect on the date that the first order changing the
2 compensation of members of the legislature issued by the Public Officers Compensation Commission
3 takes effect.

4 * Sec. 27. Sections 9 - 11 of this Act take effect on the date that the first order changing the
5 compensation of the governor and the lieutenant governor issued by the Public Officers Compensation
6 Commission takes effect.

7 * Sec. 28. Section 12 of this Act takes effect on the date that the first order changing the
8 compensation of the heads of the principal departments of the executive branch of state government
9 issued by the Public Officers Compensation Commission takes effect.

10 * Sec. 29. Sections 13 - 18, 20, and 22 - 24 of this Act take effect immediately under
11 AS 01.10.070(c).

SENATE FINANCE COMMITTEE REPORT

DATE: 5/15/91

FURTHER:

DATE TURNED INTO OFFICE: 5-18-91

The Finance Committee considered CS FOR HOUSE BILL NO. 129 (JUDICIARY) am 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, superior court and district court; efd.

and recommended:

replace with 925 CS HB 129 (GARDNER)
 or adopt _____ CS _____
 attached amendment(s)
 _____ letter of intent adopted

same title
 new title
 technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) LAA 5-15-91 #7900

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) (Office/Chair) 2-4-91 (Committee) #60.9

zero fiscal note(s) _____

SIGNING DO PASS:

[Handwritten signatures]

OTHER RECOMMENDATIONS:

All Adams Do Not Pass

1. Do not pass

2. Do not pass

Co-Chairs: Signatures and Recommendations

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO: SCSCSHB129(Fin)

Revision Date: _____
Title: "An Act establishing the Public Officers
Compensation Commission: ...compensation of
Sponsor: House Rules Committee by request
Requestor: Senate Finance

Department Affected: Legislative Affairs Agency
BRU: Legislative Council
Component: Salaries & Allowances

COMPONENT SERIAL NO: 776

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	1026.1	1026.1	1026.1	1026.1	1026.1	1026.1
TRAVEL	-230.1	-230.1	-230.1	-230.1	-230.1	-230.1
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	796.0	796.0	796.0	796.0	796.0	796.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	796.0	796.0	796.0	796.0	796.0	796.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	796.0	796.0	796.0	796.0	796.0	796.0

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)

SCSCSHB 129(Fin) relates to establishing the Public Officers Compensation Commission. By order the Commission will set the salary for the Governor, Lt. Governor, members of the Legislature, heads of principal departments and judges. A section was changed that increases the base wage for legislators. The annual salary for legislators is being increased from a range 10A (\$24,012) to a range 17A (\$37,872). SCSCSHB 129(Fin) eliminates the long-term per diem payment for legislators. See attached for detail.

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

Pamela A. Stoops

Phone: 465-3850
Date: 5/19/91

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

Warren W. Endicott

Date: 5/19/91

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

CONTINUATION OF FISCAL NOTE: SCSCSHB 129(Fin)

PERSONAL SERVICES

1. Compensation of legislators.

Effective July 1, 1991 the salary for legislators will be increased from \$24,012 annually (range 10A) to \$37,872 annually(range 17A). Personal services for this component will cost \$3,095,078 versus \$2,068,928 budgeted for FY 92. The increase in compensation and benefits is \$1,026,150 for FY 92.

1,026.1

TRAVEL

2. Long term per diem eliminated.

Long term per diem payments are vouchered and vary per legislator. Amount budgeted for FY 92 is \$230,100. Legislators are entitled to \$65.00 per day while engaged in committee business or other legislative business at their place of permanent residence. In FY 90 \$159,350 was expended on long-term per diem payments to legislators.

<230.1>

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

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-
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

Changes in SCS CSHB 129 (FIN) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.

5-19-91 date ML Comte Aide (initial)

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
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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
------------------------	--	-------

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: _____

Department Affected: Administration

Title: Public Officers Comcensation Commission

BRU: Personnel

Sponsor: Rules by Request (of Court System)

Component: Personnel

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
PART-TIME	0	0	0
TEMPORARY	0	0	0

Changes in SCS CSHB 129 (GA) have no fiscal impact. This fiscal note is appropriate.

5-19-91 date WAL Comte Aide (initial)

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

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.

Changes in 905 CSHB129 (K10) have no fiscal impact. This fiscal note is appropriate.
5-19-91 date AL (Comptroller's Initial)

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).

SENATE CS FOR CS FOR HOUSE BILL NO. 129 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

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

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

7 * Section 1. AS 22.05.140(a) is repealed and reenacted to read:

8 (a) The compensation of a supreme court justice shall be established by order of the
 9 Public Officers Compensation Commission.

10 * Sec. 2. AS 22.07.090(a) is repealed and reenacted to read:

11 (a) The compensation of a judge of the court of appeals shall be established by order of
 12 the Public Officers Compensation Commission. The compensation of a judge may not be
 13 diminished during the term of office, unless by general law applying to all salaried officers of

1 the state.

2 * Sec. 3. AS 22.10.190(a) is repealed and reenacted to read:

3 (a) The compensation of a superior court judge shall be established by order of the Public
4 Officers Compensation Commission.

5 * Sec. 4. AS 22.15.220(a) is repealed and reenacted to read:

6 (a) The compensation of a district court judge shall be established by order of the Public
7 Officers Compensation Commission.

8 * Sec. 5. AS 22.15.230 is amended to read:

9 Sec. 22.15.230. ADDITIONAL COMPENSATION. Subject to rule of the supreme court,
10 a [DISTRICT JUDGE OR] magistrate shall receive a per diem allowance and a transportation
11 allowance commensurate with that authorized for other state employees.

12 * Sec. 6. AS 24.10.100 is amended to read:

13 Sec. 24.10.100. SALARY OF LEGISLATORS. The monthly salary for each member
14 of the legislature is equal to step A, Range 17 [RANGE 10] of the salary schedule in
15 AS 39.27.011(a) for Juneau. The president of the senate and the speaker of the house of
16 representatives are each entitled to an additional \$500 a year during tenure of office.

17 * Sec. 7. AS 24.10.100 is repealed and reenacted to read:

18 Sec. 24.10.100 SALARY OF LEGISLATORS. The salary for each member of the
19 legislature shall be established by order of the Public Officers Compensation Commission. The
20 commission may authorize per diem for legislators. The commission may also authorize
21 additional compensation for the president of the senate and the speaker of the house of
22 representatives.

23 * Sec. 8. AS 24.10.105(c) is amended to read:

24 (c) A legislator is entitled to receive per diem at the long-term rate
25 [(1)] during a legislative session if the legislator is living in the legislator's place
26 of permanent residence during the session [; AND

27 (2) WHILE ENGAGED IN COMMITTEE BUSINESS OR OTHER
28 LEGISLATIVE BUSINESS AT THE LEGISLATOR'S PLACE OF PERMANENT
29 RESIDENCE].

30 * Sec. 9. AS 24.10.110 is repealed and reenacted to read:

31 Sec. 24.10.110. ADDITIONAL ALLOWANCES. The Public Officers Compensation

1 Commission may authorize an annual allowance for postage, stationary, stenographic services,
2 and other expenses for each member of the legislature.

3 * Sec. 10. AS 24.10.120 is amended to read:

4 Sec. 24.10.120. METHOD OF PAYMENT. Salaries, and, if authorized by the Public
5 Officers Compensation Commission, per diem [,] and additional allowances for members of the
6 legislature shall be paid by warrants drawn on vouchers approved by the legislative fiscal officer.
7 The legislative fiscal officer shall, by January 31 of each year, file with the legislature's fiscal
8 office a report of all vouchers approved for payment under this section during the preceding
9 calendar year. The report must include [SHALL PROVIDE], by legislator, the date of each
10 voucher, the amount paid, and the basis for approval for payment. The report is a public record.

11 * Sec. 11. AS 39.20.010 is repealed and reenacted to read:

12 Sec. 39.20.010. COMPENSATION OF GOVERNOR. The compensation of the governor
13 shall be established by order of the Public Officers Compensation Commission.

14 * Sec. 12. AS 39.20.030 is repealed and reenacted to read:

15 Sec. 39.20.030. COMPENSATION OF LIEUTENANT GOVERNOR. The compensation
16 of the lieutenant governor shall be established by order of the Public Officers Compensation
17 Commission.

18 * Sec. 13. AS 39.20.050 is amended to read:

19 Sec. 39.20.050. EXCLUSIVE COMPENSATION. The compensation established by
20 order of the Public Officers Compensation Commission and other benefits established
21 [FIXED] by law for the governor and lieutenant governor are compensation [IS] in full for all
22 services rendered by each of them in any official capacity or employment whatsoever during their
23 respective terms of office, and shall be paid throughout their respective terms of office unless the
24 office becomes vacant.

25 * Sec. 14. AS 39.20.080(a) is repealed and reenacted to read:

26 (a) The compensation of the head of each principal executive department shall be
27 established by order of the Public Officers Compensation Commission.

28 * Sec. 15. AS 39.23 is amended by adding a new section to read:

29 Sec. 39.23.201. COMPENSATION COMMISSION ESTABLISHED. (a) The Public
30 Officers Compensation Commission is established in the Office of the Governor. The
31 commission is composed of seven members appointed by the governor. Members serve staggered

1 terms of four years. Commission membership shall include at least one business executive, one
2 person with experience in public administration, one person with experience in personnel
3 management, one economist, one lawyer, and a former elected public officer of the state. A
4 vacancy shall be filled for the balance of the unexpired term. A commission member may serve
5 no more than two complete consecutive terms.

6 (b) The commission shall elect a member to chair its meetings. A majority of the
7 commission members constitutes a quorum to transact business. The affirmative vote of four
8 members is required to approve the commission's report or an order on compensation.

9 (c) The commission shall meet every other year at the call of the chair. Notice of a
10 meeting shall be mailed to each member at least 15 days before the date scheduled for the
11 meeting.

12 (d) The commission shall hold a public hearing to discuss its findings before submitting
13 its report or an order to the legislature.

14 * Sec. 16. AS 39.23.230(a) is amended to read:

15 (a) If requested by the commission, the Department of Administration [LEGISLATIVE
16 AFFAIRS AGENCY] shall provide staff for the commission.

17 * Sec. 17. AS 39.23 is amended by adding a new section to read:

18 Sec. 39.23.241. DUTIES OF THE COMMISSION. (a) The commission shall review
19 the compensation of the governor, lieutenant governor, members of the legislature, heads of the
20 principal departments of the executive branch of state government, supreme court justices, judges
21 of the court of appeals, judges of the superior court, and district court judges. The commission
22 shall submit a report on its findings every even-numbered year no later than the 10th day of the
23 regular session of the legislature. A commission member who does not concur in the report may
24 file a minority report.

25 (b) The commission may submit an order with the report making changes to the
26 compensation of a public officer. Before submitting a report or order on compensation, the
27 commission shall give reasonable public notice of its preliminary findings, solicit public
28 comments, and give due regard to the public comments.

29 (c) An order changing the compensation of a public officer does not take effect if a bill
30 disapproving the order in its entirety is enacted into law within 60 days after the order is
31 submitted to the legislature. Unless disapproved, an order increasing the compensation of a

1 public officer is subject to funding through legislative appropriation and, for public officers other
2 than legislators, takes effect on the later of the first day of the next fiscal year and the effective
3 date of the first appropriation to fund the increase. For legislators, an order increasing
4 compensation takes effect on the later of the first day of the next regular legislative session and
5 the effective date of the first appropriation to fund the increase. Unless disapproved and except
6 as provided in (d) of this section, an order decreasing the compensation of a public officer other
7 than a legislator takes effect on the first day of the next fiscal year and an order decreasing the
8 compensation of a legislator takes effect on the first day of the next regular legislative session.

9 (d) An order decreasing the compensation of persons currently holding office as the
10 governor, lieutenant governor, justices of the supreme court, or judges of the court of appeals,
11 superior court, or district court may not take effect until the later of July 1 of the next fiscal year
12 and the effective date of a general law applying to all salaried officers of the state that diminishes
13 compensation with which the order is consistent.

14 * Sec. 18. AS 39.23 is amended by adding a new section to read:

15 Sec. 39.23.251. FILING WITH LIEUTENANT GOVERNOR AND CERTIFICATION.

16 The commission shall, upon transmitting an order on compensation to the legislature, file the
17 order in the office of the lieutenant governor. When the order becomes effective, the commission
18 shall certify the copy of the order on file in the office of the lieutenant governor.

19 * Sec. 19. AS 39.23.260 is amended to read:

20 Sec. 39.23.260. POLICY OF THE LEGISLATURE. It is the policy of the legislature
21 that the commission determine an equitable rate and form of compensation [, BENEFITS, AND
22 ALLOWANCES] for the governor, lieutenant governor, members of the legislature, heads
23 of the principal departments of the executive branch of state government, supreme court
24 justices, judges of the court of appeals, judges of the superior court, and district court
25 judges. In determining the compensation for each office, the commission shall consider the
26 following factors:

27 (1) the skill required;

28 (2) the time required;

29 (3) the opportunity for other earned income;

30 (4) the value of public services as performed in other states and in the federal
31 government;

1 (5) the value of similar services when performed in the private sector of this
2 state and in other states based on the responsibility and discretion required in the office;

3 (6) the reasonable expenses incurred in performing the public service;

4 (7) the percentage change in the Consumer Price Index for Anchorage,
5 Alaska, as determined by the United States Department of Labor, Bureau of Labor
6 Statistics since the last compensation adjustment;

7 (8) the compensation presently received by the public officers and all other
8 benefits received;

9 (9) the interests and welfare of the public and the financial ability of the state
10 to meet the costs;

11 (10) the geographic cost-of-living based on a public officer's primary place
12 of assignment;

13 (11) the cost-of-living differential between Anchorage, Alaska, and other
14 locations in the United States; and

15 (12) other factors that are normally or traditionally considered in the
16 determination of compensation [LEGISLATORS].

17 * Sec. 20. AS 39.23 is amended by adding a new section to read:

18 Sec. 39.23.401. DEFINITIONS. In this chapter,

19 (1) "commission" means the Public Officers Compensation Commission;

20 (2) "compensation" means the salary, per diem, and allowances paid a public
21 officer.

22 * Sec. 21. AS 22.05.140(c); AS 22.10.190(c); and AS 22.15.220(d) are repealed.

23 * Sec. 22. AS 39.23.200, 39.23.240, 39.23.250, and 39.23.400 are repealed.

24 * Sec. 23. AS 24.10.101 and 24.10.105 are repealed.

25 * Sec. 24. Notwithstanding AS 39.05.055(5) and the provisions of AS 39.23.201, enacted by sec. 15
26 of this Act, one of the initial members appointed to the Public Officers Compensation Commission shall
27 serve a one-year term, two members shall serve two-year terms, two members shall serve three-year
28 terms, and two members shall serve four-year terms.

29 * Sec. 25. Notwithstanding the requirement in AS 39.23.201(c), enacted by sec. 15 of this Act, that
30 the commission meet every other year, and the requirement in AS 39.23.241(a), enacted by sec. 17 of
31 this Act, that the Public Officers Compensation Commission submit reports in even-numbered years, the

1 commission shall submit its first report concerning the compensation of public officers no later than the
2 10th day of the regular session of the legislature immediately following the enactment of this Act.
3 Thereafter, the commission shall meet in odd-numbered years under AS 39.23.201(c) and submit reports
4 in even-numbered years under AS 39.23.241(a).

5 * **Sec. 26.** When the Public Officers Compensation Commission files its first order changing the
6 compensation of justices of the supreme court or judges of the court of appeals, superior court, or district
7 court, it shall address the compensation of all of those public offices in the order. The commission shall
8 include both the governor and the lieutenant governor in the first order it issues addressing the
9 compensation of either of those public offices.

10 * **Sec. 27.** Sections 6 and 8 of this Act take effect July 1, 1991.

11 * **Sec. 28.** Sections 1 - 5 and 21 of this Act take effect on the date that the first order changing the
12 compensation of justices and judges issued by the Public Officers Compensation Commission takes
13 effect.

14 * **Sec. 29.** Sections 7, 9, 10, and 23 of this Act take effect on the date that the first order changing
15 the compensation of members of the legislature issued by the Public Officers Compensation Commission
16 takes effect.

17 * **Sec. 30.** Sections 11 - 13 of this Act take effect on the date that the first order changing the
18 compensation of the governor and the lieutenant governor issued by the Public Officers Compensation
19 Commission takes effect.

20 * **Sec. 31.** Section 14 of this Act takes effect on the date that the first order changing the
21 compensation of the heads of the principal departments of the executive branch of state government
22 issued by the Public Officers Compensation Commission takes effect.

23 * **Sec. 32.** Sections 15 - 20, 22, and 24 - 26 of this Act take effect immediately under
24 AS 01.10.070(c).

Proposed CS: 7-LS0580P /
 Cramer
 5/16/91
 • Technical Amendment
 rec'd by Law (5-15-91 Memo Page 4)
 • Page 4, Sec. 15 ADDED
 • Page 6, Sec. 19 39.23.250 also
 repealed

SENATE CS FOR CS FOR HOUSE BILL NO. 129 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
 Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

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

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

7 * Section 1. AS 22.05.140(a) is repealed and reenacted to read:

8 (a) The compensation of a supreme court justice shall be established by order of the
 9 Public Officers Compensation Commission.

10 * Sec. 2. AS 22.07.090(a) is repealed and reenacted to read:

11 (a) The compensation of a judge of the court of appeals shall be established by order of
 12 the Public Officers Compensation Commission. The compensation of a judge may not be
 13 diminished during the term of office, unless by general law applying to all salaried officers of

1 the state.

2 * Sec. 3. AS 22.10.190(a) is repealed and reenacted to read:

3 (a) The compensation of a superior court judge shall be established by order of the Public
4 Officers Compensation Commission.

5 * Sec. 4. AS 22.15.220(a) is repealed and reenacted to read:

6 (a) The compensation of a district court judge shall be established by order of the Public
7 Officers Compensation Commission.

8 * Sec. 5. AS 22.15.230 is amended to read:

9 Sec. 22.15.230. ADDITIONAL COMPENSATION. Subject to rule of the supreme court,
10 a [DISTRICT JUDGE OR] magistrate shall receive a per diem allowance and a transportation
11 allowance commensurate with that authorized for other state employees.

Duncan → *New Sec. 6 - Re # accordingly*

12 * Sec. 6. AS 24.10.100 is repealed and reenacted to read:

13 Sec. 24.10.100 SALARY OF LEGISLATORS. The salary for each member of the
14 legislature shall be established by order of the Public Officers Compensation Commission. The
15 commission may authorize per diem for legislators. The commission may also authorize
16 additional compensation for the president of the senate and the speaker of the house of
17 representatives.

18 * Sec. 7. AS 24.10.120 is amended to read:

19 Sec. 24.10.120. METHOD OF PAYMENT. Salaries, per diem if authorized by the
20 Public Officers Compensation Commission, and additional allowances for members of the
21 legislature shall be paid by warrants drawn on vouchers approved by the legislative fiscal officer.
22 The legislative fiscal officer shall, by January 31 of each year, file with the legislature's fiscal
23 office a report of all vouchers approved for payment under this section during the preceding
24 calendar year. The report must include [SHALL PROVIDE], by legislator, the date of each
25 voucher, the amount paid, and the basis for approval for payment. The report is a public record.

26 * Sec. 8. AS 39.20.010 is repealed and reenacted to read:

27 Sec. 39.20.010. COMPENSATION OF GOVERNOR. The compensation of the governor
28 shall be established by order of the Public Officers Compensation Commission.

29 * Sec. 9. AS 39.20.030 is repealed and reenacted to read:

30 Sec. 39.20.030. COMPENSATION OF LIEUTENANT GOVERNOR. The compensation
31 of the lieutenant governor shall be established by order of the Public Officers Compensation

1 Commission.

2 * Sec. 10. AS 39.20.050 is amended to read:

3 Sec. 39.20.050. EXCLUSIVE COMPENSATION. The compensation established by
4 order of the Public Officers Compensation Commission and other benefits established
5 [FIXED] by law for the governor and lieutenant governor are compensation [IS] in full for all
6 services rendered by each of them in any official capacity or employment whatsoever during their
7 respective terms of office, and shall be paid throughout their respective terms of office unless the
8 office becomes vacant.

9 * Sec. 11. AS 39.20.080(a) is repealed and reenacted to read:

10 (a) The compensation of the head of each principal executive department shall be
11 established by order of the Public Officers Compensation Commission.

12 * Sec. 12. AS 39.23 is amended by adding a new section to read:

13 Sec. 39.23.201. COMPENSATION COMMISSION ESTABLISHED. (a) The Public
14 Officers Compensation Commission is established in the Office of the Governor. The
15 commission is composed of seven members appointed by the governor. Members serve staggered
16 terms of four years. Commission membership shall include at least one business executive, one
17 person with experience in public administration, one representative of a nonpartisan voters'
18 organization, one representative of a labor organization, and one lawyer. A vacancy shall be
19 filled for the balance of the unexpired term. A commission member may serve no more than two
20 complete consecutive terms.

21 (b) The commission shall elect a member to chair its meetings. A majority of the
22 commission members constitutes a quorum to transact business. The affirmative vote of four
23 members is required to approve the commission's report or an order on compensation.

24 (c) The commission shall meet every other year at the call of the chair. Notice of a
25 meeting shall be mailed to each member at least 15 days before the date scheduled for the
26 meeting.

27 (d) The commission shall hold a public hearing to discuss its findings before submitting
28 its report or an order to the legislature.

29 * Sec. 13. AS 39.23.230(a) is amended to read:

30 (a) If requested by the commission, the Department of Administration [LEGISLATIVE
31 AFFAIRS AGENCY] shall provide staff for the commission.

1 * Sec. 14. AS 39.23 is amended by adding a new section to read:

2 Sec. 39.23.241. DUTIES OF THE COMMISSION. (a) The commission shall review
3 the compensation of the governor, lieutenant governor, members of the legislature, heads of the
4 principal departments of the executive branch of state government, supreme court justices, judges
5 of the court of appeals, judges of the superior court, and district court judges. The commission
6 shall submit a report on its findings every even-numbered year no later than the 10th day of the
7 regular session of the legislature. A commission member who does not concur in the report may
8 file a minority report.

9 (b) The commission may submit an order with the report making changes to the
10 compensation of a public officer. Before submitting a report or order on compensation, the
11 commission shall give reasonable public notice of its preliminary findings, solicit public
12 comments, and give due regard to the public comments.

13 (c) An order changing the compensation of a public officer does not take effect if a bill
14 disapproving the order in its entirety is enacted into law within 60 days after the order is
15 submitted to the legislature. Unless disapproved, an order increasing the compensation of a
16 public officer is subject to funding through legislative appropriation and, for public officers other
17 than legislators, takes effect on the later of the first day of the next fiscal year and the effective
18 date of the first appropriation to fund the increase. For legislators, an order increasing
19 compensation takes effect on the later of the first day of the next regular legislative session and
20 the effective date of the first appropriation to fund the increase. Unless disapproved and except
21 as provided in (d) of this section, an order decreasing the compensation of a public officer other
22 than a legislator takes effect on the first day of the next fiscal year and an order decreasing the
23 compensation of a legislator takes effect on the first day of the next regular legislative session.

24 (d) An order decreasing the compensation of persons currently holding office as the
25 governor, lieutenant governor, justices of the supreme court, or judges of the court of appeals,
26 superior court, or district court may not take effect until the later of July 1 of the next fiscal year
27 and the effective date of a general law applying to all salaried officers of the state that diminishes
28 compensation with which the order is consistent.

29 * Sec. 15. AS 39.23 is amended by adding a new section to read:

30 Sec. 39.23.251. FILING WITH LIEUTENANT GOVERNOR AND CERTIFICATION.

31 The commission shall, upon transmitting an order on compensation to the legislature, file the

1 order in the office of the lieutenant governor. When the order becomes effective, the commission
2 shall certify the copy of the order on file in the office of the lieutenant governor.

3 * Sec. 16. AS 39.23.260 is amended to read:

4 Sec. 39.23.260. POLICY OF THE LEGISLATURE. It is the policy of the legislature
5 that the commission determine an equitable rate and form of compensation [, BENEFITS, AND
6 ALLOWANCES] for the governor, lieutenant governor, members of the legislature, heads
7 of the principal departments of the executive branch of state government, supreme court
8 justices, judges of the court of appeals, judges of the superior court, and district court
9 judges. In determining the compensation for each office, the commission shall consider the
10 following factors:

11 (1) the skill required;

12 (2) the time required;

13 (3) the opportunity for other earned income;

14 (4) the value of public services as performed in other states and in the federal
15 government;

16 (5) the value of similar services when performed in the private sector of this
17 state and in other states based on the responsibility and discretion required in the office;

18 (6) the reasonable expenses incurred in performing the public service;

19 (7) the percentage change in the Consumer Price Index for Anchorage,
20 Alaska, as determined by the United States Department of Labor, Bureau of Labor
21 Statistics since the last compensation adjustment;

22 (8) the compensation presently received by the public officers and all other
23 benefits received;

24 (9) the interests and welfare of the public and the financial ability of the state
25 to meet the costs;

26 (10) the geographic cost-of-living based on a public officer's primary place
27 of assignment;

28 (11) the cost-of-living differential between Anchorage, Alaska, and other
29 locations in the United States; and

30 (12) other factors that are normally or traditionally considered in the
31 determination of compensation [LEGISLATORS].

1 * Sec. 17. AS 39.23 is amended by adding a new section to read:

2 Sec. 39.23.401. DEFINITIONS. In this chapter,

3 (1) "commission" means the Public Officers Compensation Commission;

4 (2) "compensation" means the salary and per diem paid a public officer.

5 * Sec. 18. AS 22.05.140(c); AS 22.10.190(c); and AS 22.15.220(d) are repealed.

6 * Sec. 19. AS 39.23.200, 39.23.240, 39.23.250, and 39.23.400 are repealed.

7 * Sec. 20. AS 24.10.101 and 24.10.105 are repealed.

8 * Sec. 21. Notwithstanding AS 39.05.055(5) and the provisions of AS 39.23.201, enacted by sec. 12
9 of this Act, one of the initial members appointed to the Public Officers Compensation Commission shall
10 serve a one-year term, two members shall serve two-year terms, two members shall serve three-year
11 terms, and two members shall serve four-year terms.

12 * Sec. 22. Notwithstanding the requirement in AS 39.23.201(c), enacted by sec. 12 of this Act, that
13 the commission meet every other year, and the requirement in AS 39.23.241(a), enacted by sec. 14 of
14 this Act, that the Public Officers Compensation Commission submit reports in even-numbered years, the
15 commission shall submit its first report concerning the compensation of public officers no later than the
16 10th day of the regular session of the legislature immediately following the enactment of this Act.
17 Thereafter, the commission shall meet in odd-numbered years under AS 39.23.201(c) and submit reports
18 in even-numbered years under AS 39.23.241(a).

19 * Sec. 23. When the Public Officers Compensation Commission files its first order changing the
20 compensation of justices of the supreme court or judges of the court of appeals, superior court, or district
21 court, it shall address the compensation of all of those public offices in the order. The commission shall
22 include both the governor and the lieutenant governor in the first order it issues addressing the
23 compensation of either of those public offices.

24 * Sec. 24. Sections 1 - 5 and 18 of this Act take effect on the date that the first order changing the
25 compensation of justices and judges issued by the Public Officers Compensation Commission takes
26 effect.

27 * Sec. 25. Sections 6, 7, and 20 of this Act take effect on the date that the first order changing the
28 compensation of members of the legislature issued by the Public Officers Compensation Commission
29 takes effect.

30 * Sec. 26. Sections 8 - 10 of this Act take effect on the date that the first order changing the
31 compensation of the governor and the lieutenant governor issued by the Public Officers Compensation

- 1 Commission takes effect.
- 2 * **Sec. 27.** Section 11 of this Act takes effect on the date that the first order changing the
- 3 compensation of the heads of the principal departments of the executive branch of state government
- 4 issued by the Public Officers Compensation Commission takes effect.
- 5 * **Sec. 28.** Sections 12 - 17, 19, and 21 - 23 of this Act take effect immediately under
- 6 AS 01.10.070(c).

SCS CSHB 129 (FIN)

CHANGES MADE BY THE SENATE FINANCE COMMITTEE TO CSHB 129 (JUD) AM:

Sections 6, 8, and 27: These sections are new. They give legislators a salary increase to Range 17, Step A, and eliminate long-term per diem for legislative work done at a legislator's permanent place of residence. These changes are effective on July 1, 1991; they will be repealed by the first order of the Public Officers Compensation Commission that changes the salary of legislators.

Section 15: This section lists those professions from which some of the commission's members must be appointed. The SCS deletes the list from the House bill (one business executive, one person with experience in public administration, one representative of a nonpartisan voters' organization, one representative of a labor organization, and one lawyer) and replaces it with the list contained in CSSB 113 (STA) (one business executive, one person with experience in public administration, one person with experience in personnel management, one economist, one lawyer, and a former elected public officer of the state).

Section 18: This section contains a technical amendment to the House bill to correct an effective date problem (it merely renumbers the section from 39.23.250 to 39.23.251).

Section 20: This section was amended to change the definition of "compensation." The House bill defined it as salary and per diem. The SCS defines it as salary, per diem and allowances.

Adopted
5-18-91

Attachment
A

Major differences between CSHB 129 (JUD) am and CSSB 113 (STA):

1. CSHB 129 (JUD) am: Section 12 provides that commission membership shall include at least one business executive, one person with experience in public administration, one representative of a non-partisan voters organization, one representative of a labor organization, and one lawyer.

SB13
version

* ~~CSHB 129~~ (STA): Section 13 provides that commission membership shall include at least one business executive, one person with experience in public administration, one person with experience in personnel management, one economist, one lawyer, and one former elected public officer of the state.

2. ~~CSHB 129~~ (JUD) am: Section 14 provides that the commission shall submit reports and orders changing compensation during even-numbered years.

HB129
(language
even years)

CSSB 113 (STA): Section 15 provides that the commission shall submit reports and orders changing compensation during odd-numbered years.

→ 3. ~~CSHB 129~~ (JUD) am: Section 14 provides that the legislature has 60 days in which to disapprove an order changing compensation.

60 days
HB129
version

CSSB 113 (STA): Section 15 provides that the legislature has until the effective date of the order changing compensation in which to disapprove it. [The effective date of the order is the later of July 1 or the effective date of the appropriation to fund the order.]

4. ~~CSHB 129~~ (JUD) am: Section 14 provides that an order changing the compensation of public officers other than legislators takes effect on the later of July 1 or the effective date of the appropriation to fund the order. An order changing the compensation of legislators takes effect on the later of the first day of the next regular session or the effective date of the appropriation to fund the order.

Adopted

* ~~CSHB 129~~ (STA): Section 15 provides that an order changing the compensation of any officer takes effect on the later of July 1 or the effective date of the appropriation to fund the order.

Revised
→ SB13

5. CSHB 129 (JUD) am: Section 17 provides that "compensation" includes salary and per diem.

* ~~CSHB 129~~ (STA): Section 18 provides that "compensation" includes salary, per diem, and allowances.

SCS HB 129 (FW)

#1

The Public Officers Compensation Commission would have seven members, some of whom would be appointed by the governor from specific professions. The specific professions listed in CSHB 129 (JUD) am (section 12) and CSSB 113 (STA) (section 13) are as follows:

<u>PROFESSION</u>	<u>SOURCE</u>
business executive	both bills
person with experience in public administration	both bills
representative of a nonpartisan voters' organization	HB 129
representative of a labor organization	HB 129
lawyer	both bills
economist	SB 113
former elected public officer of the state	SB 113
person with experience in personnel management	SB 113

SB 113 vers

#4

AMENDMENT TO CSHB 129 (JUD) AM

Page 4, beginning at line 16, after "appropriation":

DELETE "and, for public officers other than legislators, takes effect on the later of the first day of the next fiscal year and the effective date of the first appropriation to fund the increase. For legislators, an order increasing compensation takes effect on the later of the first day of the next regular legislative session and the effective date of the first appropriation to fund the increase. Unless disapproved and except as provided in (d) of this section, an order decreasing the compensation of a public officer other than a legislator takes effect on the first day of the next fiscal year and an order decreasing the compensation of a legislator takes effect on the first day of the next regular legislative session."

INSERT "and takes effect on the later of July 1 of the next fiscal year and the effective date of the first appropriation to fund the increase. Unless disapproved and except as provided in (d) of this section, an order decreasing the compensation of a public officer takes effect July 1 of the next fiscal year."

#5

AMENDMENT TO CSHB 129 (JUD) AM

Page 2, insert following line 17:

"* Sec. 7. AS 24.10.110 is repealed and reenacted to read:

Sec. 24.10.100. ADDITIONAL ALLOWANCES. The Public Officers Compensation Commission may authorize an annual allowance for postage, stationary, stenographic services, and other expenses for each member of the legislature."

Renumber subsequent sections accordingly.

Page 6, line 6, after "compensation":

DELETE "means the salary and per diem paid a public officer."

INSERT "means the salary, per diem and allowances paid a public officer."

#1

The Public Officers Compensation Commission would have seven members, some of whom would be appointed by the governor from specific professions. The specific professions listed in CSHB 129 (JUD) am (section 12) and CSSB 113 (STA) (section 13) are as follows:

<u>PROFESSION</u>	<u>SOURCE</u>
business executive	both bills
person with experience in public administration	both bills
representative of a nonpartisan voters' organization	HB 129
representative of a labor organization	HB 129
lawyer	both bills
economist	SB 113
former elected public officer of the state	SB 113
person with experience in personnel management	SB 113

#2

AMENDMENT TO CSHB 129 (JUD) AM

Page 4, line 6, after "every":

DELETE "even-numbered"

INSERT "odd-numbered"

Page 6, line 16, after "in":

DELETE "even-numbered"

INSERT "odd-numbered"

Page 6, line 19, after "in":

DELETE "odd-numbered"

INSERT "even-numbered"

Page 6, line 20, after "in":

DELETE "even-numbered"

INSERT "odd-numbered"

#3

AMENDMENT TO CSHB 129 (JUD) AM

Page 4, beginning at line 14, after "law":

DELETE "within 60 days after the order is submitted
to the legislature."

INSERT "before the effective date of the change to
compensation."

#4

AMENDMENT TO CSHB 129 (JUD) AM

Page 4, beginning at line 16, after "appropriation":

DELETE "and, for public officers other than
legislators, takes effect on the later of the
first day of the next fiscal year and the
effective date of the first appropriation to fund
the increase. For legislators, an order
increasing compensation takes effect on the later
of the first day of the next regular legislative
session and the effective date of the first
appropriation to fund the increase. Unless
disapproved and except as provided in (d) of this
section, an order decreasing the compensation of a
public officer other than a legislator takes
effect on the first day of the next fiscal year
and an order decreasing the compensation of a
legislator takes effect on the first day of the
next regular legislative session."

KEEP

INSERT "and takes effect on the later of July 1 of
the next fiscal year and the effective date of the
first appropriation to fund the increase. Unless
disapproved and except as provided in (d) of this
section, an order decreasing the compensation of a
public officer takes effect July 1 of the next
fiscal year."

Adopted

#5

AMENDMENT TO CSHB 129 (JUD) AM

Page 2, insert following line 17:

"* Sec. 7. AS 24.10.110 is repealed and reenacted to read:

Sec. 24.10.100. ADDITIONAL ALLOWANCES. The Public Officers Compensation Commission may authorize an annual allowance for postage, stationary, stenographic services, and other expenses for each member of the legislature."

Re-number subsequent sections accordingly.

Page 6, line 6, after "compensation":

DELETE "means the salary and per diem paid a public officer."

INSERT "means the salary, per diem and allowances paid a public officer."

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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May 15, 1991
HAND-DELIVERED

Hon. Jay Kerttula, Co-Chair
Hon. Pat Pourchot, Co-Chair
Senate Finance Committee
Room 516 - Capitol
Juneau, Alaska 99811

Re: CS HB 129 (Judiciary) am

Dear Senators Kerttula and Pourchot:

We advised the House State Affairs and Judiciary Committees that we were concerned about the constitutionality of certain features of the above bill. We also testified briefly at your committee's hearing on the Senate version of the bill, SB 113. We now explain those views in greater detail. Based on a prior request of court administrative director Archur H. Snowden, II, we also address the points raised in the court system's March 17, 1991, analysis of the bill for the House Judiciary Committee.

Though the House has added provisions to the bill to insure that the legislature's power to appropriate and the governor's power to veto the salary orders issued by the salary commission established by the bill, and the appropriations necessary to make them effective, we believe an argument can be made that portion of the bill which purports to set salaries by order for the governor, lieutenant governor, and judges is unconstitutional.

Art. III, sec. 15 of the Alaska Constitution requires that the compensation of the governor be "prescribed by law". Article IV, sec. 13 requires the same with respect to the compensation of judges. The Alaska Supreme Court comprehensively addressed the prerequisites of enactment in State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980). In A.L.I.V.E. Voluntary the court struck down a section of the Administrative Procedures Act which purported to grant the legislature the power to annul administrative regulations by concurrent resolution. The opinion indicates that the term "by law" means by an enactment made in accordance with Alaska Const. art. II, secs. 13-19. A.L.I.V.E. Voluntary, 606 P.2d at 772-3. In drawing this conclusion, the court relied on the clear intention of the Alaska Constitutional Convention as expressed in the following testimony:

...[W]hen we say in the second sentence [of the proposed provision], "The state may by law," we are saying that the law must be passed by the legislature in the manner provided in the constitution and the statutes, and either signed by the governor or passed over his veto or become law without his signature in the manner provided by the constitution ...

A.L.I.V.E. Voluntary, 606 P.2d at 773, quoting 5 Proceedings of the Alaska Constitutional Convention at 3405 (January 28, 1956) (remarks of Delegate Sundborg).

The inclusion in the bill of a provision requiring that the orders of the proposed Public Officers Compensation Commission are subject to appropriation (see CSHB 129 at 4, lines 15-19 in proposed AS 39.23.241(c)) may not meet this objection. Art. II, sec. 13 of the Alaska Constitution limits appropriations bills to appropriations; matters of general law, including the salary level of the offices in question here, must be addressed in appropriate legislation. The salary orders which the proposed commission would issue do not qualify as general laws.

In its analysis of the constitutionality of the bill, the court system relies heavily on federal authority, including Atkins v. United States, 556 F.2d 1028 (Ct.Cl. 1977), cert. denied, 434 U.S. 1009 (1978), a case upholding a federal law allowing the recommendations of the President as to judicial salaries to become effective unless blocked by a resolution of one house of the legislature. See Letter from Charles S. Christensen III to Rep. Dave Donley (March 17, 1991). It cites the case primarily in support of an argument that HB 129 does not impermissibly delegate a legislative function. Our concern lies not in the delegation 1/, but in the use of a device, the salary order, which does not meet the formal prerequisites of enactment. Our court has distinguished Atkins on this point. In A.L.I.V.E. Voluntary the Alaska Supreme Court was asked to determine the constitutionality of a law permitting the legislature to annul administrative

1/ While we appreciate the political difficulty of setting the salaries of high ranking public officials, we disagree with the court system that the task of setting the salaries is so impractical or cumbersome as to require delegation. See March 17, 1991 letter, Christensen to Donley, at 4, citing Warren v. Boucher, 543 P.2d 731, 734 (Alaska 1975). However, we believe the provisions of section 16 of the bill are probably detailed enough to avoid the charge of improper delegation. cf. and contest Fairbanks North Star Borough v. State, 736 P.2d 1140, 1143 (Alaska 1987).

regulations by concurrent resolution. The court considered whether the legislature could exercise its powers without following the enactment provisions of the Alaska Constitution. It answered in the negative. A.L.I.V.E. Voluntary, 606 P.2d at 772-3, citing Plumley v. Hale, 594 P.2d 497, 502 (Alaska 1979). In considering the separation of powers aspects of the case, it noted with reference to the Court of Claims holding in Atkins that Article I, sec. 1 of the United States Constitution did not ". . ." as a textural [sic] matter, mechanically direct the manner in which Congress must exercise the legislative power" that the same could not be said of Article II the Alaska Constitution. A.L.I.V.E. Voluntary, 606 P.2d at 776-7, quoting Atkins, 556 F.2d at 1062.

There are other textual differences between the Alaska and U.S. Constitutions which might result in a ruling different than that in another case relied upon by the court system, Pressler v. Simon, 428 F.2d 302 (D.D.C. 1976), aff'd sub nom. Pressler v. Blumenthal, 434 U.S. 1028 (1978). In Pressler, a three judge panel upheld a law which allowed a commission to set salaries for members of Congress, reasoning that the language of U.S. CONST., art. I, sec. 6, and the apparent desire of the framers of the federal constitution to leave to Congress the ultimate responsibility to set its own salaries allowed Congress to delegate the power to set its salaries. Art. I, sec. 6 provides that congresspersons' compensation is to be ". . . ascertained by law". "Ascertained by law" and "prescribed by law" as used in Alaska Const. art. III, sec. 15, and art. IV, sec. 13, may not be interpreted to have the same meaning. "Ascertain" means "finding out" or "rendering certain". "Prescribe" means "dictate" or "lay down authoritatively". See Black's Law Dictionary (5th ed. 1979); Webster's Third New Int'l Dictionary (1976). A salary order clearly falls into the former category, but may not fit the latter. The holding in Pressler may apply with some force to Alaska's constitutional provision regarding the compensation of legislators, art. II, sec. 7, which provides that legislators receive an annual salary, but not specifying the means by which the salary should be determined. However, it seems that the framers of Alaska's constitution had something more formal in mind when they determined that judicial and gubernatorial salaries should be "prescribed by law" 2/, and that in A.L.I.V.E. Voluntary, the Alaska Supreme Court took the framers' intent seriously.

2/ The framers added certain formalities to the legislation process proposed by the drafters of the original enactment provisions of Article II, despite the assertion by the drafters that the original provisions were like those of the United States Constitution. 3 Proceedings of the Alaska Constitutional Convention 1746-8.

More interesting among the court system's citations is a case from Illinois in which a similar administrative procedure was upheld despite constitutional enactment provisions similar to Alaska's. Quinn v. Donnewald, 483 N.E.2d 216, 222 (Ill. 1985). There, the Illinois Supreme Court concluded that the initial law providing for salary orders by an administrative agency complied with constitutional provisions requiring that salaries of judges and legislators be "provided by law", and that the salaries of officers of the executive branch be "established by law". ILL. CONST. art. IV, sec. 11; art. V, sec. 21; art. VI, sec. 14. We would certainly rely on this case if called upon to defend the law as it is now written. However, a brief review of the later annotations to the enactment provisions of the Illinois Constitution (art. IV, sec. 8) suggest a more casual approach to the formalities of enactment than the Alaska Supreme Court seems prepared to adopt.

A case can be made that the state's courts will take an approach similar to Illinois' if called upon to review the statute. Nonetheless, we remain concerned that in light of A.L.I.V.E. Voluntary and the framers' express statements about the meaning of "by law", a challenge as to the use of salary orders to set the salaries of the governor, lieutenant governor, and judges may be successful. See 1980 Inf. Op. Att'y Gen. at 2 (February 27; J-66-382-80) ("by law" means adherence to constitution's provisions for enacting laws); see also 1977 Inf. Op. Att'y Gen. at 1 (November 16; J-66-280-78) and 1978 Inf. Op. Att'y Gen. (January 20; J-66-280-78) (cautioning that prior statute may be unconstitutional because concurrent resolution procedure therein didn't meet "by law" requirement for certain offices). The proposed commission could of course recommend rather than order salaries for those offices where there may be a constitutional problem, in the manner provided in current AS 39.23.240(c).

With regard to the legislative disapproval provisions of proposed AS 39.23.241(c), we doubt that the 60 day deadline for disapproval is enforceable; the legislature will always be able to amend the law. We suspect that the disapproval provisions will go the way of AS 23.40.215(b), which is rarely used, and that the legislature will express its views on the commission's orders when it makes its appropriations, as it does when it reviews the monetary terms of collective bargaining agreements. See AS 23.40.215(a).

We close with a brief technical note. Sec. 9 of ch. 124, SLA 1986, provides that AS 39.23.250 would not become effective until a constitutional amendment is adopted which creates a state salary compensation commission. CS HB 129's proposed amendment to AS 39.23.250 does not address this. It is not clear whether the

Senators Kerttula and Pourchot
Sb 113

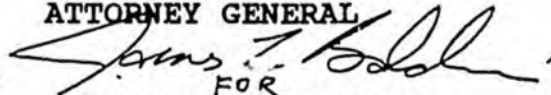
May 15, 1991
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House meant the delayed effective date to stand or overlooked this matter when drafting sec. 19. Your committee may wish to resolve this ambiguity.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERAL

By:



FOR

Kathleen Strasbaugh
Assistant Attorney General

Encl.

From: WCMC002 --JDCVM1
To: GASCBPA --JDCVM1

Date and time 02/19/91 16:44:03

From: Ron Lorensen
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, lt 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 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.

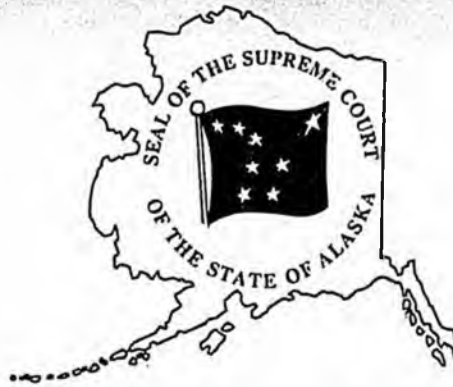
Those are the main issues I see in the short period of time I've had to look the bill over and think about it. Hope this helps. Bye.

cc: WPFCBJJ --JDCVM1

WCMC002 --JDCVM1

Thanks. Ron

*Presented to
House Staff Affairs
and House Judiciary*



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

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May 15, 1991

The Honorable Pat Pourchot
Co-Chairman, Senate Finance Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Pourchot:

CSHB 129 (JUD) am, establishing a Public Officers Compensation Commission, has been referred to the Finance Committee for consideration. This bill is similar to CSSB 113 (STA), which was heard by the committee earlier this month. Major differences between CSHB 129 (JUD) am and CSSB 113 (STA) are as follows:

1. CSHB 129 (JUD) am: Section 12 provides that commission membership shall include at least one business executive, one person with experience in public administration, one representative of a non-partisan voters organization, one representative of a labor organization, and one lawyer.

CSSB 113 (STA): Section 13 provides that commission membership shall include at least one business executive, one person with experience in public administration, one person with experience in personnel management, one economist, one lawyer, and one former elected public officer of the state. *Adopted*

2. CSHB 129 (JUD) am: Section 14 provides that the commission shall submit reports and orders changing compensation during even-numbered years. *Adopted*

CSSB 113 (STA): Section 15 provides that the commission shall submit reports and orders changing compensation during odd-numbered years.

3. CSHB 129 (JUD) am: Section 14 provides that the legislature has 60 days in which to disapprove an order changing compensation. *Adopted*

CSSB 113 (STA): Section 15 provides that the legislature has until the effective date of the order changing compensation in which to disapprove it. The effective date of the order is the later of July 1 or the effective date of the appropriation to fund the order.

4. CSHB 129 (JUD) am: Section 14 provides that an order changing the compensation of public officers other than legislators takes effect on the later of July 1 or the effective date of the appropriation to fund the order. An order changing the compensation of legislators takes effect on the later of the first day of the next regular session or the effective date of the appropriation to fund the order. *Adopted*

CSSB 113 (STA): Section 15 provides that an order changing the compensation of any officer takes effect on the later of July 1 or the effective date of the appropriation to fund the order. *Rescinded
Adopted*

5. CSHB 129 (JUD) am: Section 17 provides that "compensation" includes salary and per diem.

CSSB 113 (STA): Section 18 provides that "compensation" includes salary, per diem, and allowances. *Adopted*

The Alaska Court System is supportive of either version of this legislation. Based upon statements made by administrative officials, we believe that CSHB 129 (JUD) am is less likely to be vetoed by the governor because it requires an intervening election before an increase in legislative compensation can take effect.

Please feel free to contact me if you have any questions or comments.

Very truly yours,



C.S. Christensen III
Staff Counsel



Alaska Court System
State of Alaska

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May 17, 1991

The Honorable Jay Kerttula, Co-Chairman
The Honorable Pat Pourchot, Co-Chairman
Senate Finance Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senators Kerttula and Pourchot:

A representative of the Department of Law has provided the Finance Committee with a letter discussing the constitutionality of CSHB 129 (JUD) am, an act establishing a Public Officers Compensation Commission.^{1/} In the letter, concern is expressed regarding that portion of the bill which authorizes the commission to set compensation for the governor, lieutenant governor, and justices and judges.

Specifically, the letter notes that article III, section 15 of the Alaska Constitution requires the salary of the governor and lieutenant governor to be "prescribed by law." Article IV, section 13 requires that the salary of justices and judges also be "prescribed by law." It is argued that the constitution's use of the phrase "by law" requires salaries to be enacted in accordance with article II, sections 13-19 of the Alaska Constitution. Those sections set forth the mechanism by which bills are enacted into law by the legislature.

1. Letter from Kathleen Strasbaugh to Senators Kerttula and Pourchot (May 15, 1991)

In contrast, the constitution does not require that the compensation of legislators or commissioners be "prescribed by law." In this regard, it should be noted that the Department of Law no longer suggests that the salary order mechanism may be constitutionally infirm with respect to the compensation of legislators or commissioners; its only remaining concern appears to involve the salaries of the other specified officers.

In its analysis of CSHB 129 (JUD) am, the department relies primarily on State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980). In that case, the Alaska Supreme Court held that the legislature could not annul an administrative regulation by passage of a concurrent resolution, but only by enactment of a bill into law.

The department states that "[t]he opinion indicates that the term 'by law' means by an enactment made in accordance with Alaska Const. art. II, secs. 13-19." Strasbaugh letter at 1. We disagree with this characterization of A.L.I.V.E. Voluntary.

The court in A.L.I.V.E. Voluntary was not concerned with the import of the phrase "by law," and it did not consider whether the use of that phrase precluded the legislature from delegating its powers to a non-legislative body. Instead, as it noted, "[t]he question presented by this case is whether the legislature can exercise its legislative power without following these enactment provisions." A.L.I.V.E. Voluntary, 606 P.2d at 772.

The court held that the legislature could not exercise its legislative power without following the Alaska Constitution's enactment provisions (although administrative agencies could exercise delegated legislative power without being subject to such formalities). In support of this conclusion, it referenced the minutes of the constitutional convention:

The minutes of the proceedings of the constitutional convention indicate that the delegates were fully aware that only by following the enactment procedures could the legislature make law.

A.L.I.V.E. Voluntary, 606 P.2d at 773.

The court cited remarks of Delegate Sundborg in support of this conclusion, not in support of any "clear intention" of the convention to limit the legislature's ability to delegate powers

that must be exercised by law, as claimed by the department.^{2/} Strasbaugh letter at 2.

A review of the complete statement made by Delegate Sundborg reveals that the convention was concerned only with the procedure that must be followed by the legislature in enacting law, and not with the issues surrounding the delegation of power to administrative agencies:

[W]hen we say in the second sentence, "The state may by law", we are saying that that law must be passed by the legislature in the manner that is required by the constitution and the statutes, and either signed by the governor or passed over his veto or become law without his signature in the manner provided in the constitution, which we felt was the real intention of the body rather than merely requiring that the legislature by a majority in each house and without adhering to any of those other restrictions and without any reference to the governor could contract debt on behalf of the state.

5 Proceedings of the Alaska Constitutional Convention at 3405 (January 28, 1956) (remarks of Delegate Sundborg) (emphasis added).

However, even if we were to assume that the remarks of Delegate Sundborg did indicate an intent to limit the legislature's ability to delegate its powers, the remarks related to a specific type of legislative power, the power to contract state debt. It is axiomatic that some types of legislative power are fundamental and cannot be delegated. See, e.g., State v. American Federation of State, County and Municipal Employees, AFL-CIO Local 1726, Division of Adult Correction, 298 A.2d 362 (Del. 1972). The power to contract state debt may be such a fundamental power; the

2. The department states that its "concern lies not in the delegation, but in the use of a device, the salary order, which does not meet the formal prerequisites of enactment." Strasbaugh letter at 2. However, since it is definitionally impossible for a device utilized by a non-legislative body to meet the formal prerequisites of enactment, the issue is really one of delegation: can the legislature delegate a power when the constitution states that the power must be exercised "by law."

power to legislate is not. In context, Delegate Sundborg's remarks can only be applicable to the delegation of one specific power, and cannot be read as a general statement of limitation on legislative delegation.

As noted in my letter to Representative Dave Donley dated March 17, 1991, the supreme court has on one occasion considered whether a constitutional provision requiring the exercise of a power "by law" prohibits the delegation of that power (or, as the Department of Law would put it, has considered whether the term "by law" means that an enactment must be made in accordance with article II of the constitution). Warren v. Boucher, 543 P.2d 731 (Alaska 1975), involved the legislature's delegation to the lieutenant governor of the power to enact a method to determine if an initiative and a legislative act are substantially the same. In accordance with article V, section 3, and article XI, section IV of the Alaska Constitution, that method must be "prescribed by law." Notwithstanding this requirement, the court held that the delegation of power was proper; no enactment was necessary for the lawful exercise of the power by the lieutenant governor. Warren, 543 P.2d at 733, 734.

As noted in my letter to Representative Donley and in my testimony before the committee, a review of the case law in Alaska and other jurisdictions leads to the conclusion that the legislature may delegate its power to set salaries to a commission in the manner set forth in CSHB 129 (JUD) am. The delegation may take place whether or not the underlying constitutional provisions require that such salaries be "prescribed by law," as long as the legislature retains the ultimate control over the salaries. Such control is provided for by this legislation.

Please feel free to contact me if you have any additional questions or comments.

Very truly yours,



Charles S. Christensen III
Staff Counsel