

SB

101

**SEVENTEENTH LEGISLATURE
SENATE JUDICIARY COMMITTEE BILL FILE**

BILL NUMBER: ^{SB} 701
 ABBREVIATED TITLE: District Court Jurisdiction / State

SPONSOR: Jud Bu Request ORIGINAL RECEIVED: 2-1
 WRITTEN REQUEST TO SCHEDULE REC'D: _____ FROM: _____
 SPONSOR'S STATEMENT REC'D: 1-30 FROM: Court Sup.
 SECTIONAL ANALYSIS RQST'D: _____ FROM: _____
 SECTIONAL ANALYSIS RECEIVED: _____

FISCAL NOTE (ORIGINAL)
 2-1 RQST'D OF: Chris Chestnut / Court REC'D FROM: Chin DATE: 2-5
 RQST'D OF: Regan-Law 3-5 REC'D FROM: _____ DATE: _____ 3672
 RQST'D OF: _____ REC'D FROM: _____ DATE: _____

FISCAL NOTE (C.S.)
 RQST'D OF: _____ REC'D FROM: Law DATE: 3-20-91
 RQST'D OF: _____ REC'D FROM: _____ DATE: _____
 RQST'D OF: _____ REC'D FROM: _____ DATE: _____

FIVE DAY NOTICE GIVEN: _____ NOTICE OF HEARINGS GIVEN: _____
 COMMITTEES OF REFERRAL: FIRST: Jud SECOND: Fin THIRD: _____

COMMITTEE ACTION

DATE: Feb - Law & Rich met Will Prepare Fiscal Note -
with SWP Small Claims -
Want Draft with and without Small Claims -
3-5-91 Fiscal Note - Dept of Law - needed
C.S. is Adopted - Passed with Ind.
Rec based on Law Fiscal Note being zero.
3-26-91 Passed Ind. Rec. with letter saying Law
Fiscal Note Not Reliable. Delivered to
Sen Sec 3-27-91 -
4-8-91 Rec'd Zero Fiscal Note from LAW!

PERSONS TO BE NOTIFIED OF HEARING

- | | |
|-----------------------------------|-----------|
| 1. SPONSOR <u>Sen Jud / Court</u> | 6. _____ |
| 2. AGENCY <u>Law -</u> | 7. _____ |
| 3. _____ | 8. _____ |
| 4. _____ | 9. _____ |
| 5. _____ | 10. _____ |

No Small Claims Requested Feb 13 -
Chris. 264-8228

Will create additional appellate brief
Small Claims Procedure Against State?

Alaska State Legislature



Senate Judiciary Committee

March 27, 1991

Senator Kerttula, Co-Chairman
Senator Pourchot, Co-Chairman
Senate Finance Committee
P.O. Box V
Juneau, Alaska 99811

Re: CSSB 101 (Judiciary) Relating to the jurisdiction of the
district Court

Dear Co-Chairs,

At the direction of the Senate Judiciary Committee I am sending you this communication concerning CSSB 101 (Judiciary). This bill was heard by Senate Judiciary February 12, February 22 and March 26, 1991. The Department of Law was present at the February 12 hearing.

While it was first thought that the bill would have little or no fiscal impact on the Department of Law, we received on March 20, 1991, a fiscal note for about \$700,000 annually. It is the sense of the committee that this is not in any way a fair appraisal of the fiscal impact of the bill.

Having considered the bill three times, it was passed out of committee with the Department of Law fiscal note but subject to the concerns expressed herein.

Sincerely,

A handwritten signature consisting of a large, stylized letter 'S' with a diagonal slash through it.

Senator Rick Halford
Chair, Senate Judiciary

RH/db

Post Office Box V • Juneau, Alaska 99811

FISCAL NOTE

Bill Version: CSSB 101CJUB

(S) Publish Date: 4/22/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: April 8, 1991 Department Affected: Department of Law

Title: "...relating to the jurisdiction of the BRU: Legal Services

district court and...to hear actions as small claims. Component: Operations

Sponsor: Senate Judiciary by Request

Requestor: Senate Judiciary COMPONENT SERIAL NO.

		9	3
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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						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.) The committee substitute for SB 101 changes the original bill by denying access to the relaxed procedures of small claims court if the defendant is the state. This change should eliminate most of the incentive for claimants to bring actions in district court cited in our original fiscal note, thus making fiscal note costs unnecessary.

Prepared By: Richard I. Pegues, (Director) Phone: 465-3672

Division: Administrative Services Date: April 8, 1991

Approved by Commissioner: Charles E. Cole, Attorney General

Agency: Department of Law Date: April 8, 1991

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSSB 101 (Jud)

Revision Date: April 8, 1991 Department Affected: Department of Law

Title: "...relating to the jurisdiction of the BRU: Legal Services

district court and...to hear actions as small claims." Component: Operations

Sponsor: Senate Judiciary by Request

Requestor: Senate Judiciary COMPONENT SERIAL NO.

		9	3
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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						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.) The committee substitute for SB 101 changes the original bill by denying access to the relaxed procedures of small claims court if the defendant is the state. This change should eliminate most of the incentive for claimants to bring actions in district court cited in our original fiscal note, thus making fiscal note costs unnecessary.

Prepared By: Richard I. Pegues, Director Phone: 465-3672

Division: Administrative Services Date: April 8, 1991

Approved by Commissioner: Charles E. Coie, Attorney General

Agency: Department of Law Date: April 8, 1991

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 101

Revision Date: _____ Department Affected: Department of Law
 Title: "An Act relating to the jurisdiction of the district court." BRU: Legal Services
 Sponsor: Senate Judiciary Component: Operations
 Requestor: Senate Judiciary COMPONENT SERIAL NO.

		9	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	486.9	501.5	516.6	532.0	548.0	564.4
TRAVEL	32.5	33.5	34.5	35.5	36.6	37.7
CONTRACTUAL	99.8	102.8	105.9	109.1	112.4	115.8
SUPPLIES	37.2	38.3	39.4	40.6	41.8	43.1
EQUIPMENT	59.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	715.9	676.1	696.3	717.2	738.8	761.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER - IAR	715.9	676.1	696.3	717.2	738.8	761.0
TOTAL						

POSITIONS:

FULL-TIME	8	8	8	8	8	8
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Richard I. Pegues

Prepared By: Richard I. Pegues Phone: 465-3672
 Division: Administrative Services Date: March 19, 1991
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: March 19, 1991

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 101

Senate Bill No. 101 amends AS 09.50.250 and AS 22.15.050 to provide that a person or a corporation having a contract, quasi-contract, or tort claim against the state may bring an action against the state in district court. At the present time, claims against the state, not settled administratively by state agencies, can be filed only in superior court, irrespective of the value of the claim. The superior court normally only adjudicates claims that exceed \$50,000. This bill would act to direct claims of up to \$50,000 to the district court. Claims that exceed \$50,000 would still be heard in superior court if they were not settled administratively.

Most contract claims against the state are handled administratively by the contract remedy process provided in AS 36.30.560 - AS 36.30.695, and AS 44.77.010 - AS 44.77.070. Contract claims that are currently appealed to the superior court after these administrative proceedings usually exceed the \$50,000 threshold for original entry as a superior court appeal, although they need not exceed the threshold to do so. The bill should not cause a substantial fiscal impact for contract appeals because of the comprehensive mandatory administrative remedy process provided in the state's Procurement Code, which must be exhausted before an appeal can be undertaken in court.

Tort claims, however, are an entirely different matter. The number of personal injury claims filed against the state during the past four and one-half years has averaged 700 claims per year and is growing steadily each year. Of this number, about 130 claims now result in lawsuits in superior court. Extending the jurisdiction of the district court to include claims against the state which do not exceed \$50,000 is expected to substantially increase the number of claims that result in lawsuits. This should result in a corresponding increase in the state's cost to defend against tort suits.

Most tort claims, about 570 of the 700 claims now being filed annually, are settled administratively by the state's contracted insurance adjustor. If resolution fails at the adjustor's level, a claim is settled by the Division of Risk Management. If a claimant is not satisfied with a settlement offer, or if a claim is denied, a claimant currently has the option of bringing a tort action in superior court. During the past four years approximately forty-five percent of the claims handled administratively were denied.

There is no existing requirement, however, that a claimant even contact the state to seek an administrative settlement, and a claimant may bring a lawsuit without ever having sought a settlement from the state's adjustor or the Division of Risk Management.

It is important to note that the state on its own initiative already contacts potential claimants in the course of investigating state agency accident reports and voluntarily offers settlements where it is appropriate to do so. Nevertheless, there are many instances where injuries are alleged in a lawsuit where the state does not have prior notice or knowledge. Indeed, the state does not receive prior notice of about ninety percent of the claims that are filed as lawsuits.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 101

It is unknown to what extent the bill, by itself, will encourage additional claims, but that eventuality seems likely in view of less complex district court procedures, and because of the relative ease by which claimants can represent themselves as pro se counsel in district court. There is no totally accurate way, and certainly no easy way to forecast the number of new lawsuits that will occur as a result of the enactment of this bill. However, we live in a litigious age where the state is perceived by some, including some of those who make their living prosecuting personal injury suits, as having a deep pocket. Therefore, for the purposes of this analysis, we have attempted to show that there will be an appreciable increase in the state's tort defense, while still employing conservative cost projections.

For example, if twenty-five percent of the 570 claims that do not now result in lawsuits end up in district court, the department would have to defend 142 new suits. Although the state's defense would be under rules that are less formal or strenuous than those required by the superior court, it is anticipated that a minimum of twenty attorney hours would be required to prepare for and present the state's defense in each case. This is an estimate of the minimum time that would be required, and there will be many occasions when a substantially greater effort will be necessary.

Furthermore, some percentage of the outcome of the new cases that will be heard in district court will be appealed to the superior court. Here again, it is difficult to provide an exact estimate, but it is not unreasonable to expect that about twenty-five percent of the district court cases will be appealed to the superior court by either claimant plaintiffs or the defendant state. It is estimated that each appeal of a district court judgment will require a minimum of 100 hours of state attorney time to prepare and litigate in superior court. There will also be numerous times when either side in a district court trial will appeal the court's rulings to the superior court during the course of a trial, in the form of petitions for review.

Apparently one of the anticipated results of this bill is to decrease superior court caseload by directing claims that do not exceed \$50,000 to the district court. Our analysis does not lead to this result.

The number of cases now filed in superior court with a value that does not exceed \$50,000 is relatively small, perhaps ten to fifteen percent of the 130 tort cases filed against the state in superior court. Thus the number of cases that would be directed to district court will be easily offset, and very likely be outweighed, by the number of district court appeals to the superior court. Moreover, the superior court will be repeatedly called upon to rule on petitions for review for tort cases being tried in district court. Also, because tort claims filed in district court will automatically have an additional level of appeal (Rule 601), some claims will take one or two years longer to complete before a final judgment is entered.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 101

Aside from the issue of the superior court serving as an appeals court for district court decisions, expanding the jurisdiction of the district court to hear tort claims will increase the number of claims that are filed in court and decrease the number of claims settled administratively, resulting in a corresponding increase in state costs. Although the individual value of most claims filed under the bill in district court would be relatively small, the state's tort defense will not change and it will often involve complex government immunity arguments. District courts rarely deal with these arguments and do not have the benefit of law clerk research assistants to help sort them out. Consequently, district courts will see a sharp increase in complicated civil caseload on top of their already crowded criminal calendars.

As mentioned previously, the bill will encourage additional lawsuits, to a large extent turning an administrative process into a legal fight. This will result in some unmeritorious lawsuits. And, in some instances, the bill will result in nuisance suits when it is understood that in some circumstances it will cost the state more to defend itself in court than the value of the claim, irrespective of a claim's merit. For example, the state receives numerous claims alleging vehicle damage caused by potholes, ranging from a few hundred dollars to a few thousand dollars per claim. The state is generally immune from this type of claim because it cannot repair all potholes at one time, and it must necessarily exercise its discretion in carrying out repairs. However, under the bill the state will have to defend against such claims in court, often at a cost that exceeds the amount being claimed. Most of these claims would otherwise be properly denied under the existing administrative process, at minimal cost to the state.

Therefore, based on the foregoing estimates of 142 new lawsuits and 33 new appeals, the bill will result in an annual increase of over 6,100 hours of attorney case work for the department. On average, each of the department's tort attorneys produce about 1500 hours annually devoted solely to case work. Consequently, the bill will require the addition of at least four attorneys. Moreover, because these cases could be heard before as many as fifteen different district court judges, scheduling will present some difficulties for these attorneys requiring additional paralegal and clerical support staff. It is therefore our estimate that two attorneys, one paralegal assistant, and one legal secretary will be required in Anchorage, and one attorney each and one legal secretary each will be required in both Fairbanks and Juneau.

COST SUMMARY - SB 101

<u>Location</u>	<u>Title</u>	<u>Personal Services</u>	<u>Travel</u>	<u>Contractual</u>	<u>Supplies</u>	<u>Equipment</u>	<u>Total</u>
Anchorage	Attorney IV	81.8	7.5	20.0	6.0	6.5	121.8
	Attorney III	72.4	7.5	20.0	6.0	6.5	112.4
	Paralegal Asst II	49.3	2.5	6.6	3.3	6.5	68.2
	Legal Secretary I	35.9		4.4	3.3	9.0	52.6
Fairbanks	Attorney IV	92.6	7.5	20.0	6.0	6.5	132.6
	Legal Secretary I	37.2		4.4	3.3	9.0	53.9
Juneau	Attorney IV	81.8	7.5	20.0	6.0	6.5	121.8
	Legal Secretary I	35.9		4.4	3.3	9.0	52.6
TOTAL		486.9	32.5	99.8	37.2	59.5	715.9

FY92 costs are shown above. Costs after FY92 include a three percent inflation factor.

Position Title Attorney IV		No. of Positions 1	Range / Step 24 A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Anchorage		Election District 5 - 15, 23 - 27
TYPE OF EXPENDITURE		Amount		
Salary		61,008		
Benefits		20,760		
Premium Pay				
Other				
Total Personal Services		81,768		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		121,768		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007	121,768		
CIP Receipts	1061			
Other				
Justification This Attorney IV position will be needed to handle part of the increased caseload in Southcentral Alaska caused by implementation of SB101. The position will handle some of the new lawsuits in district court and most of the appeals of these cases in superior court. Most of this work involves court trials and requires experience in personal injury defense and state immunity defenses. Because of the extensive trial work, additional amounts are required for travel, depositions, expert witnesses, and exhibits. This position requires full journey-level skills as an Attorney IV because of the involvement in appeals.				

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 92

Page 1 of 1

Revised Date: _____

Position Title Attorney III		No. of Positions 1	Range / Step 22 A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Anchorage		Election District 5 - 15, 23 - 27
TYPE OF EXPENDITURE		Amount	Justification This Attorney III position will be needed to handle part of the increased caseload in Southcentral Alaska caused by implementation of SB101. The position will handle many of the new lawsuits in district court and a few of the appeals of these cases in superior court. Most of this new work involves court trials and requires personal injury defense experience. Because of the extensive trial work, additional amounts are needed for travel, depositions, expert witnesses, and exhibits. This position requires three or more years of experience of an Attorney III to handle this level of work.	
Salary		53,298		
Benefits		19,092		
Premium Pay				
Other				
Total Personal Services		72,390		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		112,390		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007	112,390		
CIP Receipts	1061			
Other				

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 92

Page 1 of 1
 Revised Date: _____

Position Title Paralegal Assistant II		No. of Positions 1	Range / Step 16 A	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Anchorage		Election District 5 - 15, 23 - 27
TYPE OF EXPENDITURE		Amount	Justification This paralegal assistant will be needed to handle witness scheduling that will be needed by the two attorneys in Anchorage who will handle the new torts caseload caused by the implementation of SB101. The position will also assist and prepare case files and evidence used at trial. These duties are appropriate for a Paralegal Assistant II.	
Salary		35,166		
Benefits		14,110		
Premium Pay				
Other				
Total Personal Services		49,276		
Travel		2,500		
Contractual		6,600		
Commodities		3,300		
Equipment		6,500		
Other				
Total Cost		68,176		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007	68,176		
CIP Receipts	1061			
Other				

**Request For
New Position**

AGENCY Department of Law
BRU Legal Services
COMPONENT Operations

FY 92

Page 1 of 1
Revised Date: _____

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10 B	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Anchorage		Election District 5 - 15, 23 - 27
TYPE OF EXPENDITURE		Amount	Justification The Legal Secretary I position will be needed to prepare the trial documents required by the new attorneys in Anchorage who will handle the additional tort caseload caused by implementation of SB101. Trial work of this sort is paper-intensive, involving extensive motion practice and briefing. Allocation of the position to the Legal Secretary I level is therefore appropriate.	
Salary		24,636		
Benefits		11,276		
Premium Pay				
Other				
Total Personal Services		35,912		
Travel				
Contractual		4,400		
Commodities		3,300		
Equipment		9,000		
Other				
Total Cost		52,612		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		52,612		
CIP Receipts 1061				
Other				

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 92

Page 1 of 1
 Revised Date: _____

Position Title Attorney IV		No. of Positions 1	Range / Step 24 A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Fairbanks		Election District 17 - 22, 24
TYPE OF EXPENDITURE		Amount	Justification This Attorney IV position will be needed to handle the increased caseload in Central and Northern Alaska caused by implementation of SB101. The position will handle the new lawsuits in district court and the appeals of these cases in superior court. Most of this work involves court trials and requires experience in personal injury defense and state immunity defenses. Because of the extensive trial work, additional amounts are required for travel, depositions, expert witnesses, and exhibits. This position requires full journey-level skills as an Attorney IV because of the involvement in appeals.	
Salary		70,092		
Benefits		22,558		
Premium Pay				
Other				
Total Personal Services		92,560		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		132,560		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		132,560		
CIP Receipts 1061				
Other				

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 92

Page 1 of 1
 Revised Date: _____

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10 B	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Fairbanks		Election District 17 - 22, 24
TYPE OF EXPENDITURE		Amount		
Salary		25,620		
Benefits		11,541		
Premium Pay				
Other				
Total Personal Services		37,161		
Travel				
Contractual		4,400		
Commodities		3,300		
Equipment		9,000		
Other				
Total Cost		53,861		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
IA Receipts 1007		53,861		
CIP Receipts 1061				
Other				
Justification				
<p>The Legal Secretary I position will be needed to prepare the trial documents required by the new attorney in Fairbanks who will handle the additional tort caseload caused by implementation of SB101. Trial work of this sort is paper-intensive, involving extensive motion practice and briefing. In addition, the position will handle witness scheduling in the absence of paralegal support at this location. Allocation of the position to the Legal Secretary I level is therefore appropriate.</p>				

Request For New Position

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 92

Page 1 of 1

Revised Date: _____

Position Title Attorney IV		No. of Positions 1	Range / Step 24 A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Juneau		Election District 1 - 4
TYPE OF EXPENDITURE		Amount	Justification This Attorney IV position will be needed to handle the increased caseload in Southeastern Alaska caused by implementation of SB101. The position will handle the new lawsuits in district court and the appeals of these cases in superior court. Most of this work involves court trials and requires experience in personal injury defense and state immunity defenses. Because of the extensive trial work, additional amounts are required for travel, depositions, expert witnesses, and exhibits. This position requires full journey-level skills as an Attorney IV because of the involvement in appeals.	
Salary		61,008		
Benefits		20,760		
Premium Pay				
Other				
Total Personal Services		81,768		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		121,768		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
C.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		121,768		
CIP Receipts 1061				
Other				

Request For New Position

AGENCY Department of Law

BRU Legal Services

COMPONENT Operations

FY 92

Page 1 of 1

Revised Date: _____

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10 B	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Juneau		Election District 1 - 4
TYPE OF EXPENDITURE		Amount	Justification The Legal Secretary I position will be needed to prepare the trial documents required by the new attorney in Juneau who will handle the additional tort caseload caused by implementation of SB101. Trial work of this sort is paper-intensive, involving extensive motion practice and briefing. In addition, the position will handle witness scheduling in the absence of paralegal support at this location. Allocation of the position to the Legal Secretary I level is therefore appropriate.	
Salary		24,636		
Benefits		11,276		
Premium Pay				
Other				
Total Personal Services		35,912		
Travel				
Contractual		4,400		
Commodities		3,300		
Equipment		9,000		
Other				
Total Cost		52,612		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007	52,612		
CIP Receipts	1061			
Other				

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 92

Page 1 of 1

Revised Date: _____

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill No. SB 101

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to the jurisdiction of BRU: Trial Courts
the District Court Components: _____
 Sponsor: Judiciary
 Requestor: Judiciary Committee COMPONENT SERIAL NO.

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

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

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Division: Alaska Court System Date: 02/08/91

Approved by: Arthur H. Snowden, II, Administrative Director *Stephanie Cole for*
 Agency: Alaska Court System Date: 02/08/91

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

FISCAL NOTE

Bill Version: SB 101

(S) Publish

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to the jurisdiction BRU: Trial Courts
of the district court Components: _____
 Sponsor: Judiciary
 Requestor: Judiciary COMPONENT SERIAL NO. 000 | 000 000 | 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
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 CS SB 101 (Jud) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.
 Mar 27, 91 QBS/Smh
 date Comte Aide (initial)

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Division: Alaska Court System Date: 02/04/91
 Approved by: Arthur H. Snowden, II, Administrative Director Stephanie Cole, for
 Agency: Alaska Court System Date: 02/04/91

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill No. SB 101

Revision Date:	Department Affected:	<u>Alaska Court System</u>		
Title: <u>An Act relating to the jurisdiction of the District Court</u>	BRU:	<u>Trial Courts</u>		
Sponsor: <u>Judiciary</u>	Components:			
Requestor: <u>Judiciary Committee</u>	COMPONENT SERIAL NO.	<table border="1"> <tr> <td>000 000</td> <td>000 768</td> </tr> </table>	000 000	000 768
000 000	000 768			

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *CSC* Phone: 264-8228
 Division: Alaska Court System Date: 02/08/91

Approved by: Arthur H. Snowden, II, Administrative Director *Stephanie Cole, for*
 Agency: Alaska Court System Date: 02/08/91

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

ALASKA STATE LEGISLATURE

Anchorage Office:
3111 C St., Suite 530
Anchorage, AK 99503
907-561-7616



While in Juneau:
P.O. Box V
Juneau, AK 99811
907-465-4958

Senator Rick Halford

MEMORANDUM

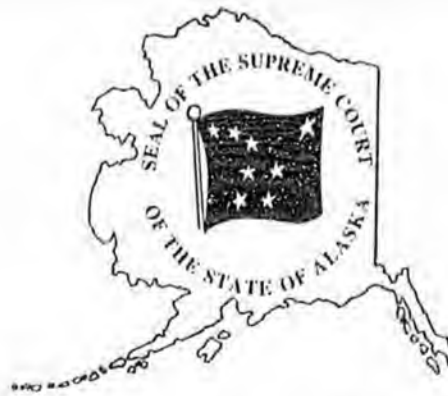
TO: Senate Judiciary Committee Members

FROM: Doug Baily

DATE: February 11, 1991

RE: Bill file supplement

Attached is the supplement to the Judiciary committee file on
SB 101.



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III
Staff Counsel

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

February 8, 1991

The Honorable Rick Halford
Chairman, Senate Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Halford:

Thank you for scheduling Senate Bill 101, relating to the jurisdiction of the district court.

Current law provides that the superior court has jurisdiction in civil cases exceeding \$50,000 in value; the district court has jurisdiction over claims not exceeding that amount. However, current law also requires that all actions against the state be brought in superior court, regardless of the size of the claim. This has resulted in situations like one which took place recently in Fairbanks, when the superior court was used to try a \$2000 claim against the state. Not only is \$2000 significantly less than the maximum amount of the district court's jurisdiction, it is significantly less than the maximum amount of a small claims case (\$5,000).

This restriction on district court jurisdiction was enacted at the time of statehood, when district court judges were not required to be attorneys. The prevailing view was that cases in which the state was a defendant should not be decided by a court presided over by a person who was not learned in the law. Today, however, this distinction is an anachronism, since a district court judge must be licensed to practice law in Alaska, and is subject to the same appointive and retention election processes as are judges of the superior court.

SB 101 proposes to treat the state like any other litigant, by making it subject to the jurisdiction of the district court when the matter in controversy does not exceed \$50,000.

The Honorable Rick Halford
February 8, 1991
Page 2

As drafted, SB 101 would make the following changes to existing law:

Section 1. Amends AS 09.50.250, relating to sovereign immunity. The existing statute requires that a contract, quasi-contract or tort claim against the state be brought in superior court. This section deletes that requirement.

Section 2. Amends AS 22.15.050, relating to the jurisdiction of the district court. The existing statute provides that the jurisdiction of that court does not extend to cases in which the state is a defendant. This section deletes that restriction on jurisdiction.

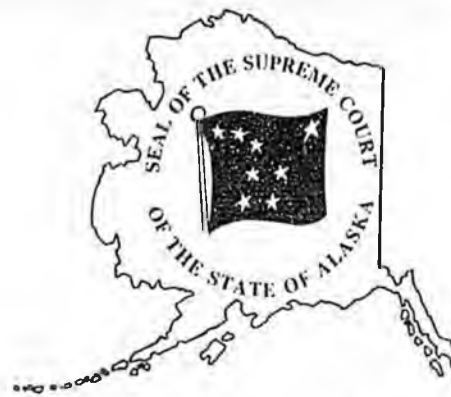
Please feel free to contact me if you have any questions or comments.

Very truly yours,



C. S. Christensen III
Staff Counsel

CSC:bh



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III
Staff Counsel

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

January 29, 1991

The Honorable Rick Halford
Chairman, Senate Judiciary Committee
Capitol Building - Room 103
Juneau, Alaska 99811

Dear Senator Halford:

The court system has requested introduction of a bill relating to claims against the state; a bill draft was provided to your office last week.

As you know, current law requires that all actions against the state be brought in superior court, regardless of the size of the claim. This bill proposes to treat the state like any other litigant, by making it subject to the jurisdiction of the district court when the matter in controversy does not exceed \$50,000.

As drafted, the bill proposes the following changes to existing law:

Section 1. Amends AS 09.50.250, relating to sovereign immunity. The existing statute requires that a contract, quasi-contract or tort claim against the state be brought in superior court. This section deletes that requirement.

Section 2. Amends AS 22.15.050, relating to the jurisdiction of the district court. The existing statute provides that the jurisdiction of that court does not extend to cases in which the state is a defendant. This section deletes that restriction on jurisdiction.

The Honorable Rick Halford
January 29, 1991
Page 2

Please feel free to contact me if you have any questions or comments. Thank you for your courtesy in this matter.

Very truly yours,



C. S. Christensen III
Staff Counsel

CSC:bh



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III
Staff Counsel

303 K Street
Anchorage, AK 99501
(907) 264-6228

January 25, 1991

The Honorable Rick Halford
Chairman, Senate Judiciary Committee
Capitol Building - Room 103
Juneau, Alaska 99811

Dear Representative Halford:

Attached you will find four pieces of draft legislation, per your conversation with Arthur Snowden. We respectfully request that the Judiciary Committee introduce these bills on behalf of the Alaska Supreme Court.

As drafted, these pieces of legislation propose the following changes to existing law:

1. Relating to the Jurisdiction of the District Court

Declaratory Judgment?

Gives the district court jurisdiction over cases in which the state is a defendant, as long as the claim otherwise falls within the court's jurisdiction. Presently, AS 09.50.250 (waiver of sovereign immunity) and AS 22.15.050 (jurisdiction of the district court) require that all cases in which the state is a defendant be brought in superior court, regardless of the size of the claim. *OK*

2. Collection of Fines/Execution on the Permanent Fund Dividend

OK

Simplifies the process of executing on a PFD, by eliminating the complex debtor notice requirements needed to execute on other types of property. Simplified notice to the debtor by the Department of Revenue is substituted. Also eliminates the existing debtor's exemption of 45% of a PFD in the case of execution to satisfy a court-ordered fine.

add - To pay for Public Defender -

The Honorable Rick Halford
January 25, 1991
Page 2

3. Protection of Funds in the Judicial Retirement System

Protects a debtor's retirement account in the JRS from alienation, sale, assignment, and levy to the same extent that existing law protects the funds of other state employees in the Public Employees' Retirement System and the Teachers' Retirement System.

4. Shared Child Custody/Findings of a Neutral Mediator

Amends existing law by requiring a court to consider the findings of a "custody investigator" rather than a "neutral mediator" when it considers awarding shared custody of a child.

I will forward a more detailed analysis of each bill under separate cover. In the meantime, if you have any questions or comments, please do not hesitate to contact me.

Thank you for your courtesy.

Very truly yours,



C. S. Christensen III
Staff Counsel

CSC:bh

Attachments

CS SB 101 Jurisdiction of District Court
to hear certain cases where state
is a defendant.

This Bill Passed Sen Jud on 3-5
with individual Recommendation

Subject To Department of Law

Fiscal Note being Zero

Dept of Law came in at \$700,000 +

So - Need further action -

Motion to Revisit Earlier Adoption?

CS-SB101

March 26, 1991 -

Discuss Fiscal note of Dept of law -
Law assumption are that Dist. Court are
less complicated. It says law arguments are
irrelevant.

Rub thinks it should be a zero note.
~~A~~ Letter to be sent -

March 27 Drafted letter to Sen F. Maine re law Fiscal Note.
Requested final form CS from Ragume by phone.

Proposed

CS FOR SENATE BILL NO. 101 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the jurisdiction of the district court and to the district court's ability
2 to hear actions as small claims."

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

4 * Section 1. AS 09.50.250 is amended to read:

5 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person or
6 corporation having a contract, quasi-contract, or tort claim against the state may bring an action
7 against the state [IN THE SUPERIOR COURT]. A person who may present the claim under
8 AS 44.77 may not bring an action under this section except as set out in AS 44.77.040(c). A
9 person who may bring an action under AS 36.30.560 - 36.30.695 may not bring an action under
10 this section except as set out in AS 36.30.685. However, an action may not be brought under
11 this section if the claim

12 (1) is an action for tort, and is based upon an act or omission of an employee of
13 the state, exercising due care, in the execution of a statute or regulation, whether or not the
14 statute or regulation is valid; or is an action for tort, and based upon the exercise or performance

1 or the failure to exercise or perform a discretionary function or duty on the part of a state agency
2 or an employee of the state, whether or not the discretion involved is abused;

3 (2) is for damages caused by the imposition or establishment of a quarantine by
4 the state;

5 (3) arises out of assault, battery, false imprisonment, false arrest, malicious
6 prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with
7 contract rights; or

8 (4) arises out of the use of an ignition interlock device certified under
9 AS 33.05.020(c).

10 * Sec. 2. AS 22.15.040(a) is amended to read:

11 (a) When a claim for relief does not exceed \$5,000 exclusive of costs, interest, and
12 attorney fees, and request is so made, the district judge or magistrate shall hear the action as a
13 small claim unless important or unusual points of law are involved or unless the state is a
14 defendant. The supreme court shall prescribe the procedural rules and standard forms to assure
15 simplicity and the expeditious handling of small claims.

16 * Sec. 3. AS 22.15.050 is amended to read:

17 Sec. 22.15.050. ACTIONS NOT WITHIN CIVIL JURISDICTION. The jurisdiction of
18 the district courts does not extend to

19 (1) an action in which the title to real property is in question;

20 (2) an action for false imprisonment, libel, slander, malicious prosecution, or
21 actions of an equitable nature, [() except as otherwise provided by law ()], OR ACTIONS IN
22 WHICH THE STATE IS A DEFENDANT].

*Sponsor letter
fiscal note requested
Jan. 29 for
Chr. Christensen.*

1 IN THE SENATE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTEENTH LEGISLATURE - FIRST SESSION

5 *Judiciary Committee By Request* A BILL

6 For an Act entitled: "An Act relating to the jurisdiction of
7 the district court."

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

9 *Section 1. AS 09.50.250 is amended to read:

10 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE.
11 A person or corporation having a contract, quasi-contract,
12 or tort claim against the state may bring an action against
13 the state [IN THE SUPERIOR COURT]. A person who may present
14 the claim under AS 44.77 may not bring an action under this
15 section except as set out in AS 44.77.040(c). A person who
16 may bring an action under AS 36.30.560 - 36.30.695 may not
17 bring an action under this section except as set out in AS
18 36.30.685. However, an action may not be brought under this
19 section if the claim

20 (1) is an action for tort, and is based upon an act or
21 omission of an employee of the state, exercising due care,
22 in the execution of a statute or regulation, whether or not
23 the statute or regulation is valid; or is an action for
24 tort, and based upon the exercise or performance or the
25 failure to exercise or perform a discretionary function or

1 duty on the part of a state agency or an employee of the
2 state, whether or not the discretion involved is abused;

3 (2) is for damages caused by the imposition or
4 establishment of a quarantine by the state;

5 (3) arises out of assault, battery, false
6 imprisonment, false arrest, malicious prosecution, abuse of
7 process, libel, slander, misrepresentation, deceit or
8 interference with contract rights; or

9 (4) arises out of the use of an ignition interlock
10 device certified under AS 33.05.020(c).

11 *Sec. 2. AS 22.15.050 is amended to read:

12 Sec. 22.15.050. ACTIONS NOT WITHIN CIVIL JURISDICTION.

13 The jurisdiction of the district courts does not extend to

14 (1) an action in which the title to real property is
15 in question;

16 (2) an action for false imprisonment, libel, slander,
17 malicious prosecution, or actions of an equitable nature
18 (except as otherwise proved by law) [, OR ACTIONS IN WHICH
19 THE STATE IS A DEFENDANT].

02/13/91 12:49:49
(akdefa)

Page A1

A Review of Master Name Indexes
For Calendar Year 1990 to Identify
Cases Where The State of Alaska is a Defendant

Court Location	Name Records For Cases With CI Suffix	Subset of CI Name Records For Defendants	Number of Records In Which SOA or State Agency is Defendant	Estimated % of General Civil Cases Filed in Calendar Year 1990 w/ Defendant=SOA
Anchorage	16,870	9,471	268	2.8
Bethel	321	175	6	3.4
Fairbanks	4,913	2,294	38	1.7
Juneau	1,459	737	34	4.6
Kenai	969	562	34	6.0
Ketchikan	526	271	4	1.5
Kodiak	583	352	5	1.4
Palmer	569	334	30	9.0
Sitka	314	157	5	3.2
Totals	26,524	14,353	424	3.0

Given the results at these selected sites, it is probably safe to assume that there are between 400 and 500 cases filed annually in which the State of Alaska or one of its agencies is the defendant.

Note: All civil cases without a CI suffix on the case number were excluded. Probate, Domestic Relations, Small Claims, etc. omitted.

2B101