

HB

90

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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MEMORANDUM

March 11, 1993

SUBJECT: SCS HB 90(JUD), 1993 Revisor's Bill (Work Order No. 8-LS0233(E))

TO: Senator Robin Taylor, Chair
Senate Judiciary Committee

FROM: David R. Dierdorff 
Revisor of Statutes

The 1993 revisor's bill was prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

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

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

Sections that delete, repeal, or update obsolete provisions: Sections 4, 8 - 11, and 19 - 21 delete, update, or repeal provisions that have become obsolete either through other legislative action or the passage of time.

Sections that correct errors or oversights: Sections 1 - 3, 5 - 7, 12, 13, 17, and 18 correct errors or oversights that can not be corrected editorially.

Sections that improve the form or substance of the law: Sections 14 - 16 propose amendments to improve the form or substance of the statute law of Alaska.

SECTIONAL ANALYSIS

Section 1. When AS 14.25.050(a) was amended in 1990 to change the contribution percentage for the Teachers Retirement System, AS 14.20.345(d) should have been similarly amended. The amendment proposed in sec. 1 of the bill simply ties the

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percentage contribution required during leaves of absence to the percentage required under AS 14.25.050. This will eliminate the need for further amendments if the percentage changes in the future. This error was discovered by the drafting attorney.

Sec. 2. This section corrects a drafting error in ch. 74, SLA 1991, by substituting "judicial districts" for "major election districts." Obviously, there are no "major" election districts, at least not by objective measurement! The error was brought to our attention by an assistant attorney general.

Secs. 3 and 5. These sections correct internal references that should have been changed when AS 16.05.720 was repealed and AS 16.05.722 and 16.05.723 were added by ch. 46, SLA 1988. The oversight was discovered by our office.

Sec. 4. This section deletes an obsolete reference to the commissioner of fish and game's power to revoke a vessel license. That power was repealed in 1977, when license issuance was transferred to the limited entry commission. The proposed amendment updates the style and substitutes a general statement for the obsolete reference. The need for the amendment was discovered by our office.

Secs. 6 and 7. These sections correct two oversights in the legal description of the Kachemak Bay Critical Habitat Area. The Department of Fish and Game and the Department of Law requested the corrections. The changes comply with the legislative intent, expressed in the 1974 Senate Resources Committee letter of intent, that the critical habitat area include "all tide and submerged lands of Kachemak Bay east of a line from Anchor Point to Point Pogibshi." 1974 Senate Journal 1009. The amendment in sec. 6 accomplishes this by excluding Port Graham, which is south and, in part, west of Point Pogibshi and not a part of Kachemak Bay. In sec. 7, the change adds the southeastern end (the head) of Tulka Bay. I have maps and further backup in my files and can make copies available upon request.

Secs. 8, 9, 19, and 20. These sections, together with several repeals in sec. 21, delete obsolete references to the Statewide Health Coordinating Council and health systems agencies. These agencies were required under former federal law, but are no longer required or in existence. The amendments have been reviewed and approved by the affected departments (Revenue, Health & Social Services, and Law).

Secs. 10 and 11. These bill sections update a reference to federal law. The need for this change was discovered during our routine editorial work.

Secs. 12 and 13. Both bill sections correct references to publications that contain safety standards. The publications were incorrectly described in ch. 37, SLA 1992. The Department of Labor and the Department of Law requested the corrections.

Secs. 14 and 15. These sections simply restate the provisions to place them in proper form and make them more readable. There are no changes in the wording other than for clarification or as required by the new style. The amendments have been reviewed and approved by the Department of Law.

Sec. 16. This section proposes a clarification in the new legislative ethics law, at the request of Representative Finkelstein's office. Because public members of the ethics committee are included within the definition of the term "legislative employees," they would be required to report close economic associations with their supervisors. However, it is clear that the legislature was interested only in relationships between true legislative employees and their supervisors, not the relationships between private sector individuals and their supervisors.

Secs. 17 and 22. Under the terms of ch. 60, SLA 1989, which established the state employees incentive award program, the program (set out in AS 39.51) is repealed July 1, 1993. The amendment to AS 39.35.680(8) proposed in sec. 17 deletes a reference to the program that will be obsolete if AS 39.51 is in fact repealed. Under sec. 22, sec. 17 will take effect only if the repeal takes place. In other words, if this legislature extends the program, sec. 17 will not take effect. We have been aware of the possible need for this technical amendment since 1989, when ch. 60 was signed into law.

Sec. 18. This section proposes a correction in the legal description for the Alexander Creek State Recreation River. The error was discovered by the Department of Natural Resources during plat plotting in connection with the management of the area. Full documentation and a map are in my files and I will make copies available upon request.

Sec. 21. Repeals provisions that are obsolete. Those provisions and the reasons for their obsolescence are:

AS 08.03.010(c)(12) - the Board of Electrical Examiners sunsetted in 1991;

AS 08.64.380(5) - this definition should have been repealed in ch. 130, SLA 1992, but was overlooked;

AS 10.06.960(d) - addresses a provision that was not incorporated in the final version of the revised corporation code;

AS 18.07.011, 18.07.111(7) and (10), AS 18.08.090(11), and AS 47.30.475(e)(4) - all relate to the obsolete Statewide Health Coordinating Council or health systems agencies;

AS 39.25.120(c)(20); AS 44.41.100 - 44.41.130; AS 44.66.010(a)(13) - the statutes were rendered obsolete when the fire commission sunsetted in 1990.

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The text of all provisions proposed for repeal is set out in the appendix.

Sec. 23. Gives the bill, except for sec. 17, an immediate effective date.

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93-223.glc

cc: Deborah Behr
Department of Law

APPENDIX - TEXT OF REPEALED PROVISIONS

AS 08.03.010(c)(12):

(12) Board of Electrical Examiners (AS 08.40.011) - June 30, 1991;

AS 08.64.380(5):

(5) "practice of lay midwifery" has the meaning given in AS 18.05.070;

AS 10.06.960(d):

(d) A director or officer of a corporation organized under the act is not personally liable to the contract creditors specified in AS 10.06.490 except as otherwise provided by law.

AS 18.07.011:

Sec. 18.07.011. Statewide Health Coordinating Council. There is created the Statewide Health Coordinating Council. The council shall be organized in the manner described by 42 U.S.C. 300m-3(b), 42 U.S.C. 2689t-(a)(1)(A), and AS 47.30.605(a). The council shall perform the functions listed in 42 U.S.C. 300m-3(c).

AS 18.07.111(7):

(7) "council" means the Statewide Health Coordinating Council organized and operated in accordance with 42 U.S.C. 300m-3;

AS 18.07.111(10):

(10) "health systems agency" means an entity organized and operated in accordance with 42 U.S.C. 300m(b), engaging in health planning and development functions in a specified health service area of the state;

AS 18.08.090(11):

(11) "Statewide Health Coordinating Council" means the council created under AS 18.07.011.

AS 39.25.120(c)(20):

(20) employees of the Alaska State Fire Commission;

AS 44.41.100 - 130:

Sec. 44.41.100. FIRE COMMISSION. The Alaska State Fire Commission is established in the Department of Public Safety.

Sec. 44.41.110. MEMBERSHIP. (a) The governor shall appoint the members of the commission without regard to political affiliation to serve for terms of four years. Members must have an understanding of basic fire protection principles. A member may serve no more than two consecutive full terms. Membership must include a

- (1) member of the Alaska Fire Chief's Association;
- (2) member of the Alaska State Firefighters Association;
- (3) member of the Alaska Municipal League;
- (4) representative of the field of education;
- (5) representative of the Alaska Federation of Natives;
- (6) representative of the insurance industry;
- (7) representative of the construction industry;
- (8) representative of the oil industry; and
- (9) representative of the transportation industry.

(b) The attorney general and the commissioners of public safety, labor, community and regional affairs, and natural resources or their designated representatives are nonvoting members of the committee.

(c) A vacancy on the commission shall be filled from the appropriate source. The appointee shall serve for the unexpired portion of the term.

(d) Members serve without compensation but are entitled to travel and per diem authorized for members of boards and commissions under AS 39.20.180.

Sec. 44.41.120. PROCEDURES; STAFF. (a) A quorum consists of five members and must include either the chair or the vice-chair of the commission.

(b) The membership shall elect a chair and a vice-chair to serve for terms of one year. The chair may appoint standing and special committees and subcommittees.

(c) The chair, the governor, or three members of the commission may call a special meeting.

(d) The commission may hire staff as necessary. Employees of the commission are in the partially exempt service under AS 39.25.120.

Sec. 44.41.130. POWERS AND DUTIES. (a) The commission shall

(1) develop and adopt a state master plan for fire prevention, control, education, and training, and provide direction and coordination for state fire-related programs;

(2) establish policy and operational guidelines for state agencies with fire protection responsibilities and make recommendations to private industry, local governments, and federal agencies having fire protection programs;

(3) adopt procedural regulations reasonably necessary to carry out the duties imposed by AS 44.41.100 - 44.41.130;

(4) make recommendations for local, federal, and private fire-related programs; and

(5) report on commission activities when requested by the governor or the legislature.

(b) The commission may

(1) conduct research, hold public hearings, and study related issues in order to make recommendations for the improvement of fire prevention and control in the state;

(2) accept unrestricted gifts, bequests, devises, grants, matching funds and other consideration for use in promoting the commission's work.

AS 44.66.010(a)(13):

(a) Boards and commissions listed in this subsection expire on the date set out after each:

* * *

(13) Alaska State Fire Commission - June 30, 1990;

AS 47.30.475(e)(4):

(e) A grant may not be awarded under this section unless the application includes a plan that provides for

* * *

(4) coordination with the goals and objectives of the health systems plan developed by the health systems agencies under 42 U.S.C. 3001(2)(b)(2).

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MEMORANDUM

March 4, 1993

SUBJECT: Enclosed Amendment for HB 90 (Work Order No. 8-LS-0233\A.2)

TO: Senator Robin Taylor, Chair
Senate Judiciary Committee

FROM: David R. Dierdorff 
Revisor of Statutes

Enclosed is a second amendment (which I hope will be the last) for HB 90, the 1993 revisor's bill. The two sections simply place existing law in proper form, which should make the provisions much more readable for users. For some reason, the table in paragraph (f)(3) of AS 21.18.110 was "continued" in the two subsequent paragraphs, which is contrary to our drafting standards and confusing to the user, particularly in the database. No substantive changes have been made. A copy of current law as it appears in the Alaska Statutes is enclosed for comparison purposes.

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Enclosure

cc: Deborah Behr, Department of Law

calendar year statutory valuation interest rate shall be determined for 1980 using the reference interest rate defined for 1979 and shall be determined for each following calendar year regardless of the operative date under AS 21.45.300(w).

(f) The weighting factors referred to in (c) of this section are as follows:

(1) Weighting factors for Life Insurance:

Guarantee	
Duration:	Weighting
Years	Factors
10 or less	.50
more than 10, but not more than 20;	.45
more than 20;	.35

for life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guarantee in the policy or under an option to convert to a plan of life insurance with a premium rate or nonforfeiture value or both which are guaranteed in the original policy;

(2) notwithstanding (3) of this subsection the weighting factor for a single premium immediate annuity and for an annuity benefit involving in life contingency arising from another annuity with a cash settlement option and a guaranteed interest contract with a cash settlement option — .80;

(3) for annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee	Weighting Factor		
Duration:	for Plan Type		
Years	A	B	C
5 or less;	.80	.60	.50
more than 5, but not			
more than 10;	.75	.60	.50
more than 10, but not			
more than 20;	.65	.50	.45
more than 20;	.45	.35	.35

(4) for annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (3) of this subsection increased by;

.15 .25 .05

(5) for annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settle-

Guarantee
Duration:
Years

Weighting Factor
for Plan Type

A	B	C
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ment options, which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in (3) of this subsection or derived in (4) of this subsection increased by;

.05	.05	.05
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(g) The guarantee duration for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(h) In this subsection plan type is defined as follows:

(1) plan type A: at any time policyholder may withdraw funds only

(A) with an adjustment to reflect a change in interest rates or asset values since receipt of the funds by the insurer;

(B) without such adjustment but in installments over five years or more;

(C) as an immediate life annuity; or

(D) no withdrawal permitted;

(2) plan type B: before expiration of the interest rate guarantee, policyholder may withdraw funds only

(A) with adjustment to reflect a change in interest rates or asset values since receipt of the funds by the insurer;

(B) without adjustment but in installments over five years or more;

or
(C) no withdrawal permitted; at the end of interest rate guarantee, funds may be withdrawn without adjustment in a single sum or installments over less than five years;

A M E N D M E N T

OFFERED IN THE SENATE JUDICIARY COMMITTEE

TO: HB 90

Page 4, after line 1, insert new bill sections to read:

"* **Sec. 12.** AS 21.18.110(f)(4) is repealed and reenacted to read:

(4) for annuities and guaranteed interest contracts valued on a change in fund basis, the weighting factors shown in (3) of this subsection are increased by .15 for plan type A, .25 for plan type B, and .05 for plan type C;

* **Sec. 13.** AS 21.18.110(f)(5) is repealed and reenacted to read:

(5) for annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settlement options, which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in (3) of this subsection or derived in (4) of this subsection are increased by .05."

Renumber following bill sections accordingly.

Page 5, line 13:

Delete "13"

Insert "15"

Page 5, line 14:

Delete "13"

Insert "15"

Page 5, line 15:

Delete "16"

Insert "18"