

**SB**

**122**

# SENATE COMMITTEE REPORT

DATE: 3/5/93

FURTHER:

DATE TURNED INTO OFFICE: \_\_\_\_\_

Judiciary Committee considered SENATE BILL NO. 122

"An Act relating to the disclosure of information by an employer about the job performance of an employee or former employee."

and recommends:

- replace with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal
COURT SYSTEM	3/1/93	✓	
D O A	2/24/93	✓	
L A W	2/23/93	✓	

Appropriation No Fiscal Note

**DO PASS:**

\_\_\_\_\_  
*Rick Halford*  
 \_\_\_\_\_  
*Gregg Halley*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
*Dee Dee Wiley NO REC*  
 \_\_\_\_\_  
*Shirley Little NO REC*  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
*Cheryl Taylor Debes*  
 Chair: Signature and Recommendation

# Alaska State Legislature

SENATOR  
BERT SHARP

DISTRICT P

CHAIRMAN  
TRANSPORTATION COMMITTEE

MEMBER  
FINANCE COMMITTEE  
LEGISLATIVE BUDGET & AUDIT COMMITTEE  
HEALTH & SOCIAL SERVICES



Senate

FAIRBANKS

DENALI BANK BUILDING  
119 N. CUSHMAN, SUITE 201  
FAIRBANKS, ALASKA 99701  
(907) 452-7885/7886

SESSION ADDRESS

STATE CAPITOL, ROOM 514  
JUNEAU, ALASKA 99801-1182  
(907) 465-3004/4921

## S P O N S O R   S T A T E M E N T

SB122 - "An act relating to the disclosure of information by an employer about the job performance of an employee or former employee."

SB122 protects employers from liability for the disclosure of job performance information regarding a former employee to a prospective employer.

The number of defamation suits filed in response to unfavorable references by former employers has increased substantially in the last few years. Out of fear of such lawsuits and on the recommendation of legal professionals, many employers are refusing to give honest, meaningful job performance information to prospective employers. This is a loss for all concerned. The free flow of information in the workplace is vitally important to sound decision making. Employers, employees, and, in the end, consumers benefit when hiring, firing and promotion decisions are based on complete and accurate information. SB122 will free up the exchange of information in the workplace by assuring reasonable protection to employers in their job performance disclosures.

SB122 is intended to protect only employers who give honest, well-intentioned references. It does not protect employers from liability in cases where the information disclosed was knowingly or deliberately false, was given with a malicious purpose or violated a civil right of the employee.

In the interest of allowing the freer exchange of information in the workplace, I urge you to support SB122.

SPONSOR STATEMENT

# Alaska State Legislature

SENATOR  
BERT SHARP

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Senate

## MEMORANDUM

TO: SENATOR ROBIN TAYLOR, CHAIRMAN  
SENATE JUDICIARY COMMITTEE

FROM: SENATOR BERT SHARP *BMS*

RE: REQUEST FOR HEARING & CONSIDERATION OF AMENDMENT

DATE: MARCH 5, 1992

\* I am requesting that Senate Bill #122, "An Act relating to the disclosure of information by an employer about the job performance of an employee or former employee, " be heard before the Senate Judiciary Committee.

In addition, the Senate Labor and Commerce Committee has requested that the value of the following amendment be weighed and considered by the Judiciary Committee.

Section 1 is amended by adding the following subsection:

Any employer that provides written job performance information to a prospective employer about a current or former employee shall, upon the request of said employee, send a copy of the written job performance information provided to the last known address of the person who is the subject of the reference.

Thank you for your consideration.

REQUESTED AMENDMENT  
(BY L & C)

SB122

"An act relating to the disclosure of information by an employer about the job performance of an employee or former employee."

SECTIONAL ANALYSIS

Section 1 amends AS 09.65 by adding a new section, AS 09.65.160, which provides that an employer who discloses information regarding a former employee's job performance at the request of a prospective employer or the former employee shall be immune from civil liability for such disclosures and their consequences.

The employer will not be protected from liability if it can be shown by a preponderance of the evidence that the information disclosed was knowingly false, deliberately misleading, given with a malicious purpose, or violated a civil right of the employee.

SECTIONAL ANALYSIS

217 Second Street, Suite 201  
Juneau, Alaska 99801  
(907) 586-2323  
FAX (907) 463-5515



ASCC Position Paper

SB 122  
March 4, 1993

The Alaska State Chamber of Commerce supports SB 122 - An act of relating to the disclosure of information by an employer about the job performance of an employee or former employee. This legislation adds new language to AS 09.65, relating to the disclosure of information by an employer about the job performance of an employee or former employee.

Under SB 122, an employer who provides job performance information to a prospective employer, will be presumed to be acting in good faith and, unless evidence shows a significant lack of good faith, the employer cannot be held liable for the disclosure or the consequences of the disclosure of information regarding an employee or former employee.

ASCC supports SB 122 because of the protection it provides employers. In Alaska there is a relatively small applicant base and it is imperative that employers are able to act in good faith sharing information with one another. Although statistics vary on the number of defamation cases that have been tried and won, or settled out of court, the fact remains that sharing objective information currently comes with a risk many employers cannot afford to take.

While ASCC fully recognizes the value of good employees, it is important that employers be able to share all pertinent information without fear of repercussion, providing they are acting in good faith. Therefore, ASCC strongly supports SB 122 and urges the Alaska House of Representatives to pass this legislation in an expeditious fashion.

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. SB 122

Revision Date: February 23, 1993  
Title: "...disclosure of information by an employer  
about the job performance..."  
Sponsor: Senator Sharp  
Requestor: Senator Sharp

Department Affected: Department of Law  
BRU: Legal Services  
Component: Operations  
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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 FUND SOURCE:						
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)  
Please see the attached analysis.

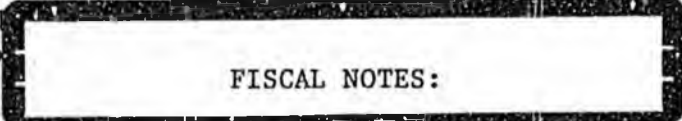
Prepared by: Richard I. Peques, Director  
Division: Administrative Services Division  
*Richard I. Peques (FOR)*

Phone: 465-3672  
Date: February 23, 1993

Approved by Commissioner: Charles E. Cole, Attorney General  
Agency: Department of Law

Date: February 23, 1993

PREPARER TO [ ] ADMINISTRATIVE OFFICE



FISCAL NOTES:

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. SB 122

ANALYSIS (Continued):

This bill protects an employer, who acts in good faith, from liability for disclosing the job performance of an employee or former employee to a prospective employer. This protection would not shield an employer who provided information the employer knew was false or misleading, was given with a malicious purpose, or violated a civil right of the employee or former employee that is protected by Alaska's antidiscrimination laws under AS 18.80, or federal law. This bill will apply to all employers in the state and will not have a fiscal impact on the Department of Law.

## FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. SB 122

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to the disclosure of information by an employer . . ." BRU: Personnel/OEEO  
 Sponsor: Senator Sharp Component: Personnel/OEEO  
 Requestor: (S) L&C COMPONENT SERIAL NO. 56

**Expenditures/Revenues: (Thousands of Dollars)**

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

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:**

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**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 (FY93) impact: \$ none

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Kevin Ritchie, Director Phone: \_\_\_\_\_  
 Division: Personnel/OEEO Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usura /NCLL Date: 2/24/93  
 Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill No. SB 122

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act relating to the disclosure of BRU: Trial Courts  
information by an employer Components: \_\_\_\_\_  
 Sponsor: Sharp  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/PROGRAM RECEIPTS						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: None

ANALYSIS: (Attach a separate page if necessary)  
No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8228  
 Division: Alaska Court System Date: 03/01/93

Approved by: Arthur H. Snowden, II, Administrative Director *AS* Date: 03/01/93  
 Agency: Alaska Court System

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