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MEMORANDUM

State of Alaska

Department of Law

TO Honorable Jerry Covey
Commissioner
Department of Education

DATE: January 19, 1994

FILE NO.: 663-94-0078

TEL NO.: 465-3603

SUBJECT: ASAA and ASAA, Inc.

FROM

Janice Gregg Levy
Janice Gregg Levy
Assistant Attorney General
Human Services Section-Juneau

INTRODUCTION

You have asked our opinion regarding two organizations -- the Alaska School Activities Association (ASAA) created at AS 14.07.058, and the Alaska School Activities Association, Inc. (ASAA, Inc.), a nonprofit corporation. Specifically, you asked the following questions:

1. Is ASAA, Inc. statutorily the same entity as ASAA?
2. If ASAA, Inc. is a different entity than ASAA, is the state legally responsible for the actions of ASAA, Inc.?
3. Is the Commissioner of Education required to enforce AS 14.07.058 - 14.07.059 in light of the legislature's defunding of ASAA?
4. If ASAA, Inc. is not the same entity as ASAA, is it appropriate, in light of the potential legal liability and other unbudgeted financial commitment of the state, for the State Board to serve as the ASAA, Inc. Appeals Review Commission?

The short answers to your questions are that ASAA and ASAA, Inc. are distinct legal entities; the state should not be liable for the acts of a nonprofit corporation, but the present arrangement may make the state vulnerable to claims; the commissioner need not on his own attempt to revive ASAA; and the State Board of Education should refrain from serving as the Appeals Review Commission for ASAA, Inc.

DISCUSSION

1. Is ASAA, Inc. statutorily the same entity as ASAA?

The answer to this question is no. ASAA, Inc. is a nonprofit corporation, created by individuals, not the state. It

Honorable Jerry Covey
Commissioner, Department of Education
663-94-0078

January 19, 1994
Page 2

was certified as a nonprofit corporation on April 21, 1986, in accordance with the corporate laws of Alaska, AS 10.20. In contrast, ASAA was created by the legislature in 1976 at AS 14.07.058.¹ Although they share similar names and were created to perform similar functions, ASAA and ASAA, Inc. are legally two distinct entities. ASAA is within state government, while ASAA, Inc. is a private, nongovernmental, nonprofit corporation.

The relationship between the two organizations is, as you indicate, an unusual one. At the time that ASAA, Inc. filed its articles of incorporation, its executive director and Board of Control were the executive secretary and Board of Control of the statutory ASAA.² Thus, at the time of the formation of ASAA, Inc., the two entities had the same functions, the same personnel, and a similar name. Additionally, ASAA, Inc. used the constitution and bylaws of ASAA. The corporation revised those documents to add "Inc." wherever "ASAA" was referenced, and added some administrative policies to what had been the ASAA handbook.³ Additionally, it is possible that some member schools believed that ASAA (the statutory entity) had simply incorporated, and that it continued to be within the Department of Education. Despite the

¹ The purpose and structure of ASAA are described in statute. A board of control is to be elected from regions in the state, and, in consultation with the department, is to hire an executive secretary. AS 14.07.058(d)-(e). The department is to approve the association's constitution and bylaws to ensure equitable treatment. AS 14.07.058(g). Additionally, the legislature established a fund within the general fund to receive deposits of ASAA fees, including membership fees and activity and events fees collected by the association. AS 14.07.059.

² Tom Wagner, then Assistant Attorney General advising the department, has pointed out that there is an inherent conflict of interest in a state employee acting as head of a nonprofit corporation whose purposes are substantially the same as the statutory program he was hired to implement. See 1988 Inf. Op. Att'y Gen. at 7 (Jan. 6; 663-86-0418). See also the January 12, 1987 memorandum from Tom Wagner to Acting Attorney General Ron Lorensen.

³ These changes were not approved by the Board of Education, and do not amend ASAA's constitution and bylaws. Thus, at the present time there exists a constitution and bylaws for ASAA, Inc. and a constitution and bylaws for ASAA. They are similar, but not identical.

Honorable Jerry Covey
Commissioner, Department of Education
663-94-0078

January 19, 1994
Page 3

overlapping functions and players, however, ASAA and ASAA, Inc. are distinct legal entities.

2. If ASAA, Inc. is a different entity than ASAA, is the state legally responsible for the actions of ASAA, Inc.?

The state should not be liable for the actions of a nonpublic corporation. Although ASAA, Inc. performs functions that serve a public interest (as do many nonprofit corporations), it is not a public entity. The interaction between the two organizations over the last six years, however, has blurred what would otherwise be a bright line legally separating these two organizations.

The most obvious way in which the two organizations have remained intertwined is that the State Board of Education has continued to sit as the Appeals Review Commission for eligibility determinations made by ASAA, Inc.'s Board of Control. This action gives the appearance that the state remains connected to ASAA, Inc., or that ASAA, Inc. is in some way within the Department of Education. A party with a claim against the corporation may well exploit that connection in an attempt to hold the state liable for the corporation's acts. Whether the state would succeed in avoiding liability would probably depend on the nature of the claim. It is in the state's best interests to take steps to avoid exposing itself to liability for acts of a nonstate entity over which it has no control.

3. Is the Commissioner of Education required to enforce AS 14.07.058 - 14.07.059 in light of the legislature's defunding of ASAA?

In our opinion, the commissioner need not attempt to administer an association which has no members and no budget. Although ASAA continues to exist in statute, its vitality depends on the participation of member schools who join by submitting an application and paying dues. There are no current members of ASAA. Those schools who once belonged to ASAA have now become members of and pay dues to ASAA, Inc. We agree with the 1988 opinion of Tom Wagner that the legislature's defunding of the ASAA budget did not operate to repeal ASAA from statute. 1988 Inf. Op. Att'y Gen. at 6 (Jan. 6; 663-86-0418). The statutory creature continues to exist, but it is in a state of hibernation. Your question, as I understand it, is whether the department is obliged to wake it up. In our opinion, it is not.

First, the legislature's defunding of the program suggests that it understood and approved of the corporation taking

Honorable Jerry Covey
Commissioner, Department of Education
663-94-0078

January 19, 1994
Page 4

over what had heretofore been a governmental function. ASAA, Inc. has governed interscholastic activities in Alaska since 1987. The Department of Education has not sought funding from the legislature for ASAA since that time. In our opinion the Department of Education is not obliged to needlessly spend time attempting to administer a program for the benefit of schools who have all joined another organization. It is unlikely that the legislature intended such a result.

Second, the language of the statute describes a whole scheme that contemplates an active membership. The only real department mandate set out in AS 14.07.058 is that the department shall make applications available to schools in the state. AS 14.07.059 requires the commissioner and the department to handle the ASAA budget in a certain manner. The department cannot carry out these duties in a vacuum. No schools have requested application or membership in ASAA, and there are no program receipts and no active association seeking a budget. The statutes do not require the department to actively solicit membership in ASAA. For these reasons, we do not believe that the department fails to perform its statutory obligations by refraining from attempting to revive ASAA. If the legislature does not approve of the manner in which interscholastic activities are governed, and desires the direct governance of those activities by the Department of Education, it is free to breathe life into ASAA by funding it again.

4. If ASAA, Inc. is not the same entity as ASAA, is it appropriate, in light of the potential legal liability and other unbudgeted financial commitment of the state, for the State Board to serve as the ASAA, Inc. Appeals Review Commission?

We believe the answer to this question is no. As described above, it is the intertwining of these distinct legal entities that exposes the state to liability for the acts of a nonstate corporation. In the past year, the Department of Education has expended significant legal fees defending in court decisions first made by a nonprofit corporation over which it exercises no control. This arrangement results in an inappropriate expense for the state, and unnecessary exposure for greater liability.

Additionally, the Board of Education simply has no statutory authority for hearing appeals from a nongovernmental corporation. That it has done so over the years may be the result of a misunderstanding by the Board of Education of an earlier attorney general opinion. Ed Nash (originally Executive Secretary

Honorable Jerry Covey
Commissioner, Department of Education
663-94-0078

January 19, 1994
Page 5

for ASAA and then Executive Director for ASAA, Inc.) asked the Board of Education in 1987 if it would consider being the final appeal step in an appeal that began before ASAA, Inc. incorporated. He suggested that ASAA, Inc. and the Board of Education could consider having the Board continue in its appellate capacity, depending on the advice of the parties' counsel.

The Board of Education apparently asked its attorney whether it should continue to hear appeals. A 1988 memo from Tom Wagner stated in relevant part:

We conclude that ASAA still exists as a legal entity within the Department of Education, that its board of control is still responsible for making eligibility decisions in accordance with its bylaws approved under 4 AAC 06.111, and that the state board still acts as an appeal body under those bylaws.

1988 Inf. Op. Att'y Gen. at 1 (Jan. 6; 663-86-0418). This view, with which we agree, states that the State Board continues to sit as the appeals body for the ASAA Board of Control. This is to be distinguished from the ASAA, Inc. Board of Control. The Board of Education may have misunderstood his advice to be that it should continue to hear any appeals that came to it. The appeals have come from the ASAA, Inc. Board of Control, not the statutorily created ASAA Board of Control. Thus, in our view the Board of Education has been improperly hearing appeals from a nonstate entity's board. The procedure should not continue.

It would be appropriate to inform ASAA, Inc. and its member schools in writing that the Board of Education will no longer hear the appeals of decisions of the ASAA, Inc. Board of Control. That body may wish to set up another appeals procedure.

CONCLUSION

In conclusion, the concerns you raise are serious. ASAA, Inc. is not the same entity as ASAA, and the Board of Education acts beyond the scope of its statutory authority when it sits as an appeals body for the nonprofit corporation. Besides acting outside the scope of its authority, it unnecessarily entangles itself with the corporation, possibly exposing the department to liability for the acts of the corporation.

In our opinion it would be appropriate for the Board of Education to notify the corporation and its member schools that it will no longer sit as the Appeals Review Commission for the

Honorable Carry Covey
Commissioner, Department of Education
663-94-0078

January 19, 1994
Page 6

corporation. The notice should explain that the corporation is a legal entity distinct from the statutory ASAA, and that ASAA, Inc. is not within the state apparatus. Although the statutes related to the Alaska School Activities Association will continue to exist, they will simply be in disuse. The legislature may choose at some point to repeal them, or alternatively may one day revive them by funding the program and requiring membership within the statutory association.

I hope this answers the questions you raised concerning ASAA and ASAA, Inc. Please do not hesitate to contact me if I can be of further assistance.

JGL/bap

Attachments

cc: Harry Gamble

WALTER J. HICKEL
GOVERNOR



P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 11, 1994

358

*The Honorable Rick Halford
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the existence and functions of certain multimember state bodies, including boards, councils, commissions, associations, or authorities.

The bill contains several proposals recommended by my Administration to eliminate certain multimember state bodies, including the milk advisory board, the Alaska School Activities Association, the Steering Council for Alaska Lands, the Rural Affairs Commission, the Governor's Commission on the Involvement of Young People in Government, the Yukon-Taiya Commission, and the environmental advisory board. Several of these bodies have not been funded by the legislature, have not met in a number of years, or do not have members appointed. Also, the State Museum Collections Advisory Committee is proposed for deletion as an efficiency measure. The functions of the committee to oversee collection acquisitions can be adequately handled by Department of Education staff. It is good public policy to delete references to these bodies in the statutes since they are, in essence, not functioning bodies or their duties can be absorbed by other state agencies as a cost-saving or efficiency measure.

The bill additionally clarifies the parole board's authority to delegate to a single member of the board the authority to establish special conditions of mandatory parole. This will expressly authorize the parole board to continue its longstanding past practice of not noticing and convening a full board meeting to save costs of operation of the parole system.

*Will
the above
be PB
Legislation?*

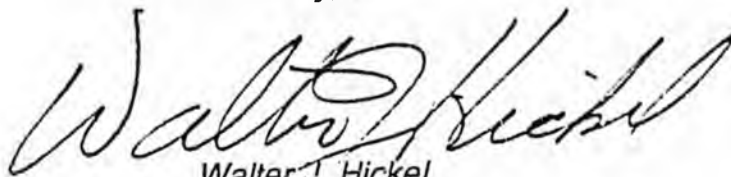
Finally, the bill amends the Alaska Labor Relations Agency's authority to select arbitrators in railroad labor relations cases. The bill sets out the role of the agency in designating arbitrators. This clarification should make the appointment process easier and more cost effective for the agency to administer.

*The Honorable Rick Halford
March 11, 1994
Page 2*

This bill represents a step forward in eliminating certain multimember state bodies as an efficiency measure or to reduce the size or costs of state government.

I urge your support of this important bill.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel". The signature is written in dark ink and is positioned above the printed name and title.

*Walter J. Hickel
Governor*

HB 531/SB 358

Sections 1 through 3...Eliminates references to the Milk Control Advisory Board within the Division of Agriculture and makes a few technical changes. Board expenses have not been funded; the board only met a few times in 25 years. The last meeting of this board was held in 1980. (Sec. 11 eliminates Board)

Sections 4 through 6...Eliminates references to the Museum Collections Advisory Committee and provides the commissioner of the department with the authority to approve acquisitions and dispositions of museum items. (This will free staff time to provide other basic services within the museum; Sec. 11 eliminates Committee.) The current committee must approve all donations, exchanges, and dispositions of the Alaska State Museum permanent collection, and all purchases over \$1,000. The MCAC was established in 1973, as the result of an investigation and hearing on the practice of acquiring and disposing artifacts. The committee was formed as a solution to prevent any occurrences of disposing artifacts without appropriate controls. No acquisition or disposal procedures were in place to safeguard the Alaska State Museum's permanent collection. Since that time, however, the ASM has organized and developed internal controls capable of preventing any improprieties associated with the collection. The MCAC has become a redundant and very expensive committee for overseeing such a modest program. Direct and indirect costs of maintaining the MCAC is almost \$25,000 a year. The entire acquisition's budget for the State Museum is currently only \$50,000 and has varied from zero to \$50,000 over the last 6 years. DOE has a plan in place to handle MCAC responsibilities without the committee.

Sections 7 through 9...Authorizes the Parole Board to delegate to one of its members the authority to establish special conditions of mandatory parole. (Allows the board to continue its practice of not noticing and convening a full board meeting for these purposes.) Setting of special or supplemental conditions of parole, in mandatory parole cases, has traditionally been done by a single member, subject to the parolee's right of appeal to the full board. The changes proposed in Section 7 through 9 clarify the legality of this practice. By delegating this responsibility to one member the remaining four members are relieved of the task of reviewing approximately 500 case files each year. As a safeguard, this system of setting conditions provides the parolee with an immediate appeal to a majority of the members if the parolee objects to any of the conditions set by one member.

Section 10...Authorizes the Department of Labor to appoint arbitrators in railroad labor relations cases. This would allow the continued use of no cost mediators from the Federal Mediation and Conciliation Service for contract negotiations. This bill removes the provision that a mediator of a labor dispute between the railroad and a bargaining unit representative must serve as the arbitrator at a time if the parties are forced to interest arbitration. Currently the department utilizes mediators at no cost through Federal Mediation and Conciliation Services.

Discontinuation of this would increase the administrative costs of the Alaska Labor Relations Agency, which serves as the railroad labor relations agency, because the Alaska Labor Relations Agency would be required to arrange a mediation referral service. In addition the costs of the mediator would have to be paid by the parties to the dispute. FMCS mediators are very experienced in mediating railroad labor disputes and there is no charge for their services.

Section 11...Repeals certain sections in order to eliminate the Milk Control Advisory Board. (Sections 1 through 3 eliminate other references to the board and make technical changes.)

Section 11...Repeals sections 14.07.058 and 14.07.059 to eliminate the Alaska School Activities Association; eliminates the state entity that duplicates the activities of an existing non-profit corporation. AS 14.07.058 and AS 14.07.059 have been in disuse since 1986. Since 1986, when articles of incorporation were filed under the name of ASAA, Inc., two distinct legal entities have existed: the statutory ASAA, which fell into disuse, and ASAA, Inc., a non-profit organization which has promoted and governed interscholastic activities in the state. This section eliminates the statutory ASAA and removes the state from potential liability for ASAA, Inc. in the future.

Section 11...Repeals several statutes in order to eliminate the Steering Council for Alaska Lands. The council was established in response to federal regulations which expired in 1990.

Section 11...Repeals several statutes in order to eliminate the Rural Affairs Commission. No appointments have been made to this commission since 1976.

Section 11...Repeals several statutes in order to eliminate the Governor's Commission on the Involvement of Young People in Government. No appointments have been made to this commission since 1974.

Section 11...Repeals several statutes in order to eliminate the Yukon Taiya Commission. The last activity of this commission was noted in the 1976 Governor's Boards and Commissions records.

Section 11...Repeals several statutes in order to eliminate the Environmental Advisory Board. The last activity of this board was in 1980.

Section 11...Repeals statutes in order to eliminate the Gas Pipeline Financing Authority. The last plan for this authority was disapproved by the legislature in January 1980.

Section 11...Repeals statutes in order to eliminate the Alaska Manpower Services Council. This council was replaced by the Job Training Council in 1983.

Section 12...Makes sections 7 through 9 regarding the Parole Board retroactive to January 1, 1986.

Section 13...Effective dates.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 25, 1994

*The Honorable Loren Lemam, Chair
Senate State Affairs Committee
State Capitol
Juneau, AK 99801-1182*

Dear Senator Lemam:

Thank you for scheduling Senate Bill 358 in the Senate State Affairs Committee. We believe this bill will bring up to date certain state statutes by eliminating entities which have been dormant, unfunded, or unnecessary for some time. It will also streamline procedures associated with specific boards.

This bill deletes in statute a number of entities which are no longer active or necessary. We believe it is good policy that these outdated statutes be eliminated. Proposed eliminations include the following nine entities: the Milk Control Advisory Board, the Museum Collections Advisory Committee, the Steering Council for Alaska Lands, the Rural Affairs Commission, the Governor's Commission on the Involvement of Young People in Government, the Yukon Taiya Commission, the Environmental Advisory Board, the Gas Pipeline Financing Authority, and the Alaska Manpower Services Council. Many of these have not had activity or funding for ten to twenty years.

The bill also relates to the powers of the Board of Parole and to the appointment of mediators in railroad labor relations cases. The bill eliminates the statutory Alaska School Activities Association as there is now a separate non-profit corporation, Alaska School Activities Association, Inc. that has a distinct and legal existence apart from state statute.

Enclosed are two sectional analyses for the bill. One gives a brief description and background for the proposed changes. The other is similar, but with added detail. Thank you for your consideration of Senate Bill 358.

Sincerely,

A handwritten signature in cursive script that reads "Kristie Leaf".

*Kristie Leaf
Director of Boards and Commissions*

Streamlining State Government - Sectional - HB531/SB358

Section	Department	Brief Description	Notes
1 thru 3	Natural Resources	Eliminates references to the Milk Control Advisory Board within the Division of Agriculture and makes a few technical changes	Board expenses have not been funded; Board only met a few times in 25 years; Sec. 11 eliminates Board; the last meeting of this board was held in 1980
4 thru 6	Education	Eliminates references to the Museum Collections Advisory Committee and provides the commissioner of the department with the authority to approve acquisitions and dispositions of museum items	This will free staff time to provide other basic services within the museum; Sec. 11 eliminates Committee
7 thru 9	Corrections	Authorizes the Parole Board to delegate to one of its members the authority to establish special conditions of mandatory parole	Allows the board to continue its practice of not noticing and convening a full board meeting for these purposes
10	Labor	Authorizes the Department of Labor to appoint arbitrators in railroad labor relations cases	This would allow the continued use of no cost mediators from the Federal Mediation and Conciliation Service for contract negotiations
11	Natural Resources	Repeals sections 03.17.020, 03.17.030, and 03.17.100(1) to eliminate the Milk Control Advisory Board	Board expenses have not been funded; Board only met a few times in 25 years; the last meeting of this board was held in 1980
11	Education	Repeals sections 14.07.058 and 14.07.059 to eliminate the Alaska School Activities Association; eliminates the state entity that duplicates the activities of an existing non-profit corporation	The department will promulgate regulations to allow school districts to continue to contract with ASAA, Inc. (a non-profit organization) for services
11	Education	Repeals sections 14.57.020, 14.57.030, 14.57.040, 14.57.060, 14.57.070, 14.57.080, and 37.14.530(b)(2) to eliminate the Museum Collections Advisory Committee	This will free staff time for other basic services
11	Natural Resources	Repeals sections 38.95.100, 38.95.110, 38.95.120, 38.95.130, and 38.95.140 to eliminate the Steering Council for Alaska Lands	This council was established in response to federal regulations which expired in 1990
11	Governor	Repeals sections 44.19.101, 44.19.102, 44.19.103, 44.19.104 and 44.19.105 to eliminate the Rural Affairs Commission and 44.47.050(a)(15) deletes its reference under DC&RA statute	No appointments have been made to this commission since 1976

*I have attached
47 Herk notes
13 Sandy Benfield*

Streamlining State Government - Sectional - HB531/SB358

Section	Department	Brief Description	Notes
11	Governor	Repeals sections 39.05.060(a)(4), 44.19.123, 44.19.124, 44.19.125, 44.19.126, and 44.19.130 to eliminate the Governor's Commission on the Involvement of Young People in Government	No appointments have been made to this commission since 1974
11	Governor	Repeals sections 44.19.181, 44.19.182, 44.19.183, 44.19.184, 44.19.185, 44.19.186, 44.19.187, and 44.19.188 to eliminate the Yukon Taiya Commission	Last activity of this commission was noted in the 1976 Governor's Board's and Commission records
11	Environmental Conservation	Repeals sections 44.46.030, 44.46.040 and 44.46.050 to eliminate the Environmental Advisory Board	Last activity of this board was in 1980
11	Revenue	Repeals section 44.82 to eliminate the Gas Pipeline Financing Authority	Last plan for this authority was disapproved by the legislature in January 1980
11	Community & Regional Affairs	Repeals section 44.99.010 to eliminate the Alaska Manpower Services Council	This council was replaced by the Job Training Council in 1983
12	Corrections	Makes sections 7 thru 9 regarding the Parole Board retroactive to January 1, 1986.	
13		Effective dates	

← why?

FISCAL NOTE
STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. 1
 Bill Version: SB 358
 (S) Publish Date: 3-14-94

Revision Date: _____ Dept. Affected: Department of Education
 Title: An Act relating to the existence and functions of certain multimember bodies... BRU: Libraries, Archives & Museums
 Component: Museum Operations
 Sponsor: Governor Hickel
 Requestor: Governor Hickel COMPONENT SERIAL NO. 1895

Expenditures/Revenues		(Thousands of Dollars)				
	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ()	0	0	0	0	0	0

FUND SOURCE		(Thousands of Dollars)				
	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY94) cost: \$ 0

POSITIONS						
	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
FULL-TIME						
PART-TIME						
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The elimination of the Museum Collections Advisory Committee will relieve four museum staff members of about 700 hours of preparatory and meeting time. The Museum has lost 40% of its staff since FY86; it desperately needs these hours to meet basic service needs.

Prepared by: Karen R. Crane *[Signature]* Phone: 465-2910
 Division: Libraries, Archives & Museums Date: 2/25/94
 Approved by Commissioner: *[Signature]* Date: 2/20/94
 Agency: Department of Education

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FISCAL NOTE

No. 2

Bill Version: SB 358

(3) Publish Date: 3-14-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: _____

Title: An Act relating to the existence and functions of certain multimembers bodies.....

Sponsor: Governor Hickel

Requester: Governor Hickel

Department Affected: Education

BRU: Executive Administration

Component: Commissioner's Office

COMPONENT SERIAL NO. 185

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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:

(Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

This legislation repeals AS 14.07.058-.059, Alaska School Activities Association. These statutes have been in a state of disuse since 1986.

Prepared by: Sheila Peterson
Division: Commissioner's Office

Phone: 465-2803
Date: February 28, 1994

Approved by Commissioner: 
Agency: Education

Jerry Covey
Date: February 28, 1994

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No: 3

Fiscal Session: SB 358

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

(S) Publish Date: 3-14-94

Revision Date: _____ Dept. Affected: Community & Regional Affairs

Title: *An Act relating to the existence and functions of certain multimember state . . .* BRU: 351

Sponsor: _____ Component: _____

Requestor: Rules Committee by request of the Governor COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current (FY94) Impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Remond Henderson *Remond Henderson* Director Phone: 465-4708

Division: Administrative Services Date: 2/28/94

Approved by Commissioner: Edgar Blatchford *Edgar Blatchford* Date: 2-23-94

Agency: Community & Regional Affairs

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FISCAL NOTE

No. 4

Bill Version: SB 358

(S, Publish Date: 3-14-94)

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act relating to ... boards, BRU: Administration & Support
councils, commissions, etc. Component: Parole Board
 Sponsor: Rules Committee
 Requestor: Governor COMPONENT SERIAL NO. 695

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY94) cost: \$ 0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Diane Schenker, Special Assistant Phone: 465-4643/786-2147
 Division: Office of the Commissioner Date: 3/25/94
 Approved by Commissioner: J. Frank Prewitt, Jr. Date: 3/25/94
 Agency: Department of Corrections

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FISCAL NOTE

Bill Version: SB 358
 (S) Publish Date: 3-14-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: Original Dept Affected: Natural Resources
 Title: "An Act relating to the existence and functions of BRU: None
certain multimember state bodies, including boards, councils,..." Component: None
 Sponsor: Rules Committee
 Requestor: Governor Component Serial No. None

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ None

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

There is no anticipated fiscal impact on DNR associated with this bill.

Prepared by: Jerry Gallagher, Legislative Liaison Phone: 465-2400
 Division: Commissioner's Office Date: 28-Feb-94
 Approved by Commissioner: [Signature] Date: 28-Feb-94
 Agency: Natural Resources

FISCAL NOTE

No. 6

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 35R

(S) Publish Date: 3-14-94

Revision Date: 3/9/94
 Title: Gov's draft bill relating to the
existence and function of certain multimember
 Sponsor: state bodies
 Requestor: _____

Department Affected: Commerce and Economic Development
 BRU: _____
 Component: _____

COMPONENT SERIAL NO. _____

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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 EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE

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
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) cost: \$ 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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Karl Luck
 Division: Director, Occupational Licensing, DCED

Phone: 465-2500
 Date: _____

Approved by Commissioner: Paul Fuhs
 Agency: Commerce and Economic Development

Date: 3/8/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. 7
Bill Version: SB 358
(S) Publish Date: 3-14-94

Revision Date: _____
Title: An Act relating to certain study, publica-
tion, and reporting requirements
Sponsor: _____
Requestor: _____

Department Affected: Commerce and Economic Development
BRU: AIDEA
Component: AIDEA

COMPONENT SERIAL NO. 1234

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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 EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE

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/MHTA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) cost: \$ 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

ANALYSIS: (Attach a separate page if necessary.)

Please see attached sheet.

Prepared by: William R. Small
Division: AIDEA

Phone: 561-8050
Date: February 25, 1994

Approved by Commissioner: Paul Fuhs
Agency: Commerce and Economic Development Date: _____

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Section 29. of the proposed legislation, impacts AIDEA, under AS 44.88.210, REPORTS AND PUBLICATIONS. The amendments under Sec.29 of the proposed legislation should not be included in a bill going to the Legislature for introduction. As the Alaska Industrial Development and Export Authority is a public corporation of the State of Alaska having outstanding and ongoing fiduciary responsibilities, the reporting requirements under AS 44.88.210, should remain as currently established. Specifically, because AIDEA is required under certain legal and financial contractual agreements such as bond covenants, and to other outside entities, such as bond rating agencies, to annually publish an audited financial statement, the Authority's statement of investments and other pertinent financial information, the proposed amendments to AS 44.88.210 are not recommended. Continuing to report on an annual basis would not provide for a fiscal impact.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO : SB 358

Revision Date: _____

Department Affected: Labor

Title: Eliminate some mutimember bodies

BRU: Commissioner's Office

Component: _____

Sponsor: Senate Rules by request of the Governor

Alaska Labor Relations Agency

Requestor: Senate State Affairs

COMPONENT SERIAL NO. 1200

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
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						
1005 GF/Program Receipt						
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 (FY94) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Jan Hart DeYoung, Hearing Examiner Phone: 465-2700

Division: Commissioner's Office Date: 3/22/94

Approved by Commissioner: Charles W. Mahlen

Agency: Department of Labor Date: 3/22/94

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SENATE BILL NO. 358

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/14/94
 Referred: STA, L&C, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the existence and functions of certain multimember state
 2 bodies, including boards, councils, commissions, associations, or authorities; and
 3 providing for an effective date."

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

5 * Section 1. AS 03.17.010 is amended to read:

6 Sec. 03.17.010. DUTIES OF THE DIRECTOR. The director shall [(1)]
 7 ✓ administer and enforce this chapter [, (2) ENFORCE THIS CHAPTER] and the
 8 provisions of marketing orders issued under this chapter [, AND (3) HAVE AN
 9 ACCOUNTING MADE OF THE FUNDS HELD BY THE BOARD AT LEAST
 10 ANNUALLY].

11 * Sec. 2. AS 03.17.040(a) is amended to read:

12 (a) Subject to AS 03.17.060 and AS 44.62 [THE] [Administrative Procedure
 13 Act] [(AS 44.62), AND WITH THE ADVICE OF THE BOARD], the director may
 14 issue, amend, or repeal marketing orders to regulate the marketing of milk in specified

1 regions of the state. A milk marketing order may be issued to

2 (1) establish orderly marketing of milk;

3 (2) provide for uniform grading and classification of milk;

4 (3) provide for the proper preparation of milk for market;

5 (4) ensure [INSURE] an adequate supply of milk;

6 (5) eliminate unfair competitive practices;

7 (6) assist producers to adjust to changing conditions;

8 (7) maintain incentive for the production of high quality milk under the
9 most sanitary conditions;

10 (8) conduct research and provide information for the benefit of the
11 producer and the consumer.

12 * Sec. 3. AS 03.17.050(a) is amended to read:

13 (a) A marketing order may direct that

14 (1) a determination be made whether a surplus of milk exists and, if
15 so, its extent;

16 (2) a surplus be disposed of with a proration of the burden of any loss
17 among the handlers;

18 (3) the quantity, class, or grade of milk sold for a certain period be
19 limited;

20 (4) the quantity a producer may sell be limited, based upon the quantity
21 available, the quantities previously handled, or both;

22 (5) the quantity or grade a handler may handle during specified periods,
23 based upon the quantity a handler has available, or quantities previously handled, or
24 both;

25 (6) there be specified periods during which a particular grade of milk
26 may be distributed;

27 (7) a surplus pool of milk or a class or grade of milk be formed and
28 the milk sold, and the proceeds of sale be equitably distributed;

29 (8) milk be inspected, graded, and classified, or any of these;

30 (9) an assessment, not to exceed three percent of value, be levied on
31 the sale of milk to provide a fund for advertising and [,] sales promotion [, AND THE

1 EXPENSES OF THE BOARD);

2 (10) prices at which a grade, class, or quantity will be sold be posted;

3 (11) milk be labeled;

4 (12) stations be established for the receiving and weighing of milk, and
5 the collection of assessments;

6 (13) cooperative investigations or undertakings be entered into with
7 other state or federal agencies.

8 * Sec. 4. AS 14.57.050 is amended to read:

9 Sec. 14.57.050. COLLECTIONS MANAGEMENT; ACQUISITIONS AND
10 DISPOSITIONS. (a) The [ON RECOMMENDATION OF THE COMMITTEE, THE]
11 department shall adopt regulations governing the museum's in-house acquisitions
12 committee, and the management and disposition of artifacts, natural history specimens,
13 art objects, collections or other items, materials, or properties that are owned by, in the
14 custody of, or are proposed for acquisition by, the state museum.

15 (b) Artifacts, natural history specimens, art objects, collections, or other items,
16 materials, or properties that relate to the history of Alaska and are appropriate for
17 preservation in the state museum of a value of \$1,000 or more may not be acquired
18 by purchase, gift, or exchange, or otherwise, nor may any item owned by, or in the
19 custody of, the state museum be disposed of by sale, gift, exchange, or otherwise,
20 without the written approval of the commissioner [COMMITTEE]. The department
21 [IN RECOMMENDING THE ACQUISITION OR DISPOSAL OF AN ITEM UNDER
22 THIS SUBSECTION FOR THE STATE MUSEUM, THE COMMITTEE] shall
23 evaluate the need for the item or collection proposed for acquisition or disposal with
24 reference to the scope of collections of the state museums.

25 (c) The department [COMMITTEE] may obtain an independent, professional
26 appraisal of the value of each item to be acquired or disposed of by or for the state
27 museum.

28 * Sec. 5. AS 14.57.120 is amended to read:

29 Sec. 14.57.120. CRITERIA APPLICABLE TO ACQUISITIONS FROM THE
30 FUND. Subject to approval given by the commissioner [MUSEUM COLLECTIONS
31 ADVISORY COMMITTEE] under AS 14.57.050(b), the director may

1 (1) establish by contract the terms and conditions of custody,
2 protection, conservation, and exhibition of an item acquired by the state museum if the
3 item is acquired and custody of it is assigned to another institution;

4 (2) transfer ownership of an item to an institution having custody of an
5 item acquired from the net income account of the fund if the director is satisfied that
6 the institution will provide necessary care and protection of the item; or

7 (3) assign long-term custody of an item to an institution having custody
8 of an item acquired from the net income account of the fund if the director is satisfied
9 that the institution to which custody of the item is transferred will provide necessary
10 care and protection of the item in accordance with a contract entered into under (1) of
11 this section.

12 * Sec. 6. AS 14.57.130 is amended to read:

13 Sec. 14.57.130. DISPOSITION OF ACQUIRED ITEMS. Subject to approval
14 of the commissioner [MUSEUM COLLECTIONS ADVISORY COMMITTEE] under
15 AS 14.57.050(b), the director may establish a deaccession policy under which the
16 director may exchange or otherwise convey title to an item acquired from the net
17 income account of the fund in accordance with generally accepted principles governing
18 the disposal of these items.

19 * Sec. 7. AS 33.16.050(c) is amended to read:

20 (c) Except as provided in (e) of this section, decisions [DECISIONS] and
21 orders of the board require the affirmative votes of a majority of the members present.

22 * Sec. 8. AS 33.16.050 is amended by adding a new subsection to read:

23 (e) A meeting of the board is not required for a decision or order setting
24 special conditions of mandatory parole by a single member of the board under
25 AS 33.16.150(b) and (e). If a prisoner or parolee who is aggrieved by the board
26 member's decision or order applies to the full board under AS 33.16.150(e) and
27 33.16.160 for a change in parole conditions, the board shall meet to act on the
28 application.

29 * Sec. 9. AS 33.16.150 is amended by adding a new subsection to read:

30 (e) The board may delegate its authority under this section to a single member
31 of the board to issue a decision or order on behalf of the board setting special

1 conditions of mandatory parole. A prisoner or parolee aggrieved by a decision or
2 order of a single board member under this section may request a change in mandatory
3 parole conditions by applying to the full board under AS 33.16.160.

4 * Sec. 10. AS 42.40.850(c) is amended to read:

5 (c) If an impasse or deadlock still exists after the issuance of an injunction, the
6 parties shall submit the dispute to binding arbitration. The railroad labor relations
7 agency shall appoint an arbitrator selected by the parties by mutual consent. If
8 the parties are unable to agree on an arbitrator, the railroad labor relations
9 agency shall appoint an arbitrator from a list of arbitrators knowledgeable in
10 railroad labor agreements. The arbitrator shall [BE THE SAME PERSON
11 SELECTED UNDER AS 42.40.840 AND SHALL] fashion the award the arbitrator
12 considers equitable.

13 * Sec. 11. AS 03.17.020, 03.17.030, 03.17.100(1); AS 14.07.058, 14.07.059; AS 14.57.020,
14 14.57.030, 14.57.040, 14.57.060, 14.57.070, 14.57.080; AS 37.14.530(b)(2); AS 38.95.100,
15 38.95.110, 38.95.120, 38.95.130, 38.95.140; AS 39.05.060(a)(4); AS 44.19.101, 44.19.102,
16 44.19.103, 44.19.104, 44.19.105, 44.19.123, 44.19.124, 44.19.125, 44.19.126, 44.19.130,
17 44.19.181, 44.19.182, 44.19.183, 44.19.184, 44.19.185, 44.19.186, 44.19.187, 44.19.188;
18 AS 44.46.030, 44.46.040, 44.46.050; AS 44.47.050(a)(15); AS 44.82; and AS 44.99.010 are
19 repealed.

20 * Sec. 12. Sections 7 - 9 of this Act are retroactive to January 1, 1986. ←

21 * Sec. 13. This Act takes effect immediately under AS 01.10.070(c).

*Partia -
Have you
done this?
this?*