

**HB**

**545**

**HFIN**

**FILE**

no/oby

**AMENDMENT**

**OFFERED IN THE HOUSE**

**BY**

**TO: CSHB 545 (STA)**

Page 1, line 11:

Following "Administration":

Insert "and to set the eligibility criteria for the differential and the differential rate itself, outside of the collective bargaining context."

Page 2, following line 10:

Insert new subsections to read:

"(e) An employee eligible for the cost-of-living differential is entitled to receive the following pay differential unless a different rate is established by the director of personnel under (f) of this section:

Communities of Residence	Percent Increase Above Out-of-State Rate
Anchorage	0.0
Juneau	0.0
Ketchikan/Prince of Wales	5.0
Valdez/Cordova	5.0
Petersburg/Wrangell/Sitka	5.0
Kodiak	5.0

(f) The director of personnel in the Department of Administration may adopt regulations to adjust the pay differential as set out in (e) of this section and establish a differential for employees residing in places not designated in (e) of this section. The differential is not subject to collective bargaining under AS 23.40.070 - 23.40.260. The

differential shall be established or adjusted under this subsection to reflect changes in the cost of living between communities of residence in this state and the cost-of-living in Bellingham, Washington, as a base of 100. The director of personnel shall conduct a cost of living survey every five years. The cost-of-living differential is subject to legislative review on an annual basis."

Reletter the following subsection accordingly.

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 17, 1996

FURTHER REFERRALS:

Date of Committee Action: 4/24/96

The FINANCE Committee considered:

HB 545

HOUSE BILL NO. 545

PUB. EMPLOYEE COST OF LIVING DIFFERENTIAL

“An Act relating to the cost-of-living differential for certain public employees residing in the state and the criteria for determining eligibility for the differential; and providing for an effective date.”

recommends it be replaced with the following committee substitute CS HB 545 (FIN)  the same title  
 a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) DOA, DOR, DOT  
3/22/96

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Richard D. Foster</u>	X			
<u>Mark Hanley</u>	X			
<u>Edna Mulder</u>	X			
<u>Jan Parnell</u>	X			
<u>Lin Volmering</u>	X			
<u>Ben Grosserhoff</u>	X			
<u>Tim Brown</u>	X			
<u>Mike Kelly</u>	X			
<u>Gene Theriault</u>	X			

CO CHAIR'S SIGNATURE Mark Hanley Richard D. Foster  
HANLEY FOSTER

# FISCAL NOTE

No.     
 Bill Version: HB 545  
 (H) Publish Date: 3/22/96

STATE OF ALASKA  
 1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: DOT&PF  
 Title: Cost of Living Differential for certain public BRU: Office of the Commissioner  
employees and criteria for determining eligibility Component: various  
 Sponsor: Rules  
 Requester: Governor COMPONENT SERIAL NO. 530

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

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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)

This fiscal note assumes that the bill will not significantly change the current determination of eligibility for Cost of Living Differential

Prepared by: Sam Kito III Phone: 465-3900  
Special Assistant  
 Division: Office of the Commissioner Date: 3/19/96  
 Approved by: *Joseph L. ...* Date: 3/19/96  
Commissioner  
 Agency: Department of Transportation and Public Facilities

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Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Cost of Living Differential BRU: Permanent Fund Dividend Division  
 Component: Permanent Fund Dividend Division  
 Sponsor: Governor  
 Requestor: Rules Committee COMPONENT SERIAL NO. 981

Expenditures/Revenues: (Thousands of Dollars)

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

This bill does not appear to impact Permanent Fund Dividend Division operations as it is currently drafted. There is no impact to the operating budget.

Prepared by: Nanci Jones Phone: 465-2323  
 Division: Permanent Fund Dividend Date: March 20, 1996  
 Approved by Commissioner: Wilson Condon Date: March 20, 1996  
 Agency: Department of Revenue

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# FISCAL NOTE

No. 3  
 Bill Version: RB 545  
 (H) Publish Date: 3/22/96

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_  
 Title: "Relating to state residency definition and criteria for cost of living differential"  
 Sponsor: Rules Committee  
 Requestor: Governor

Dept. Affected: Administration  
 BRU: Office of the Commissioner  
 Component: Labor Relations  
 COMPONENT SERIAL NO. 58

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
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<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0
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**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0-

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)

There is no fiscal impact to the Department of Administration.

Prepared by: Dianne Corso, Manager  
 Division: Labor Relations Section

Phone: 465-4404  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer *M. Boyer*  
 Agency: Department of Administration

Date: 3/19/96

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*CHRONO.CLD*

ALASKA MARINE HIGHWAY SYSTEM  
A.S. 23.40.210  
COST OF LIVING DIFFERENTIAL,  
CHRONOLOGICAL LISTING OF EVENTS

1977 Legislation Passed

1978-80 Bargaining Unit Agreements with Marine Unions allowed to run out before implementing Cost of Living Differential (COLD).

1980 COLD implemented in Marine Union Agreements. Residency Affidavits developed.

1981 MM&P and IBU members filed suit challenging residency requirement.

1980-83 Issue fairly inactive. The dollar amount of the COLD was relatively small.

1983-1984 It was recognized that COLD was going to develop into a significant amount in future contract years. The State made it an important issue in contract negotiations, putting the Unions on notice an all out effort would be made to identify non-residents.

May, 1985 The Emergency Medical Notification form was made part of the residency certification.

June, 1985 The office of the Attorney General assisted in developing notification letters to employees, establishing residency criteria, prepared a new residency certification form.

October, 1985 Letter sent to several employees questioning residency. A second letter was sent giving until November 1 to clarify residency. A notice was then placed on all vessels. A letter was sent to the Unions indicating those employees not cooperating.

1985-86 Correspondence, grievances, threats from individuals' attorneys but no further suits.

1986 A new Certification of Residency was developed. AS 01.10.055 residency criteria was made part of it. Letters again sent in November, December in the same manner as in October, 1985.

1988 U.S. Supreme Court refused to hear the appeals to lower court ruling in favor of the State, thus allowing COLD to stand.

June 1988 Correspondence with Permanent Fund to attempt to develop better certification requirements to better identify non residents

February 1989 Director orders draft Policy and Procedure developed for annual certification of residency. Strongly resisted by Marine Unions. *Admin and Law advise Regulations*

no action

N-13

March 1990 Jeffrey Cole, A.G., Anchorage became interested in our COLD while prosecuting one of our crew members in another matter. The crew member signed a sworn statement to his outside Alaska address and had been collecting COLD from the State. Our residency certification forms were sent to Cole who felt they would not hold up in court. He offered to rewrite them and helped develop policy and procedures. Director had staff pursue strategies with Department of Law and Administration.

no followup

The Ombudsman, David Haas, also took interest in our COLD situation at this time.

January, 1991 Commissioners Turpin wrote the Department of Law a memo requesting their assistance in establishing regulations similar to those of the Permanent Fund. Ronald Lorensen, A.G., responded opening a file in February, 1991 and assigned the project to Kathleen Strasbaugh.

failed to act

Knowles has introduced leg. currently not scheduled by Sen. Frank Halford

NO action

March, 1991 A.G. Valerie VanBrocklin, A.G., Anchorage had taken over for Jeffrey Cole and the unfinished business of developing a residency certification and wrote a lengthy review and recommendation on the subject. Nothing was moving on developing regulations so it was decided to go ahead with a new residency certification that could result in prosecution. A.G. Joe Galdrhof took over the responsibility of bringing offenders to prosecution and indicated that given names, he would start proceedings.

April, 1992 Jerry Bryant, OMB, became interested in the AMHS COLD situation and collected AMHS correspondence and files.

August, 1992 After review of the issue by OMB and the Attorney General's office, prosecution was decided against and instead, repayment and disciplinary action would be required. A letter from Commissioner Turpin went to all vessel employees, advising them of this latest action.

March 1996

Knowles admin. settles COLD dispute w/10 MEBA empl. Establishes PFD residency criteria as standard for determining eligibility for COLD  
Introduces legislation to permanently establish PFD def.  
Bills stalled in H. SA (one hearing) and Sen. Fin.  
no hearing scheduled/DCA Comm. Boyer has requested hearing of chairs - no response to date 4/10/96

Used  
4/17/96  
MB

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

## DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

P.O. BOX 110200  
JUNEAU, ALASKA 99811-0200  
PHONE: (907) 465-2200  
FAX: (907) 465-2135

April 17, 1996

The Honorable Mark Hanley, Co-Chair  
House Finance Committee  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Dear Mr. Chairman:

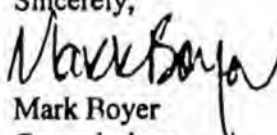
I would request that you schedule a hearing for CSHB 545(STA), "An act relating to the cost-of-living differential for certain public employees residing in the state and the criteria for determining eligibility for the differential ...." as soon as possible.

The bill is a very important tool that will help the state prevent abuses that have occurred in this program in the past. The House State Affairs Committee amended the bill to include the Permanent Fund Dividend definition of "state resident". The bill sets up a new framework of eligibility criteria and defines state residency for the purpose of pay differentials (COLD) for the marine bargaining units that are required by statute and by the collective bargaining agreements. It codifies the state's interpretation of the pay differentials and will help avoid conflicts and legal actions on this issue which will save state funds that are now spent on these disputes.

The state has been in active disputes with employees of the marine highway system over a definition of state residency and the eligibility criteria for the pay differential since 1992. Arbitrators have used different, and sometimes inconsistent, criteria in resolving the disputes. Confusion over the criteria and whether it is subject to union bargaining has also led to court litigation. This diverse situation has made it difficult for the Alaska Marine Highway System to administer the COLD program.

This bill resolves most of the uncertainty in the program by applying the permanent fund dividend definition of state resident, which has been tested in court. In addition, this bill authorizes the Department of Administration to adopt regulations to further clarify the criteria for pay differentials as the need arises. This would make it clear that the department has the authority and that criteria for determining eligibility for the differential is not subject to collective bargaining.

Your early consideration of this request would be appreciated. If you have any additional questions, please contact my office at 465-2200.

Sincerely,  
  
Mark Royer  
Commissioner

MB/nn  
cc: Pat Pourchot  
Dianne Corso

HOUSE COMMITTEE REPORT

4/17/96

(7) Date Referred to Committee: March 22, 1996

FURTHER REFERRALS:

Finance

Date of Committee Action: 4-16

The STATE AFFAIRS Committee considered:

HB 545

HOUSE BILL NO. 545

PUB. EMPLOYEE COST OF LIVING DIFFERENTIAL

"An Act relating to the cost-of-living differential for certain public employees residing in the state and the criteria for determining eligibility for the differential; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 545(STA) [ ] the same title [x] a new title

[ ] additional referral to \_\_\_\_\_ Committee [ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date) [ ] fiscal note(s) [ ] fiscal note(s)

[ ] zero fiscal note(s) (3) [x] zero fiscal note(s) Admin, Rev, DOT 3/22/96

Table with columns: SIGNING WITH RECOMMENDATIONS, DP, DNP, NR, AM. Rows include names like Jeannette James, James Porter, etc.

CHAIR'S SIGNATURE Jeannette James

TONY KNOWLES  
GOVERNOR



HB 545  
P O Box 110001  
Juneau Alaska 99811-0001  
(907) 465-3500  
Fax (907) 465-3532

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 22, 1996

The Honorable Gail Phillips  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Phillips:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would clarify how the state applies the cost of living pay differential for public employees. This bill sets up a framework of eligibility criteria and defines state residency for the purpose of pay differentials which are required for certain public employees under collective bargaining agreements. By codifying the state's interpretation of the pay differentials, this legislation will help avoid conflicts and legal actions on this issue.

The state has been in disputes with employees of the marine highway system over a definition of state residency and the eligibility criteria for the pay differential. Arbitrators have used different, and sometimes inconsistent, criteria in resolving the disputes. Confusion over the criteria and whether it is subject to union bargaining has also led to court litigation. This diverse situation has made it difficult to administer the differential program.

This bill resolves most of the uncertainty in the program by applying the permanent fund dividend definition of state resident, which has been tested in court. In addition, this bill authorizes the Department of Administration to adopt regulations to further clarify the criteria for pay differentials as the need arises. This would make it clear that the department has this authority and that criteria for the pay differential is not subject to collective bargaining.

I urge your prompt action on this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tony Knowles".  
Tony Knowles  
Governor