

SB

85

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

NO. 1
BILL VERSION: 5885
PUBLISH DATE: (S) Publish Date: 3/8/95

Revision Date: _____
Title: "An Act making corrective amendments to the Alaska Statutes as recommended..."
Sponsor: Senate Rules Committee
Requestor: Senate State Affairs

Department Affected: Legislative Affairs Agency
BRU: All
Component: All

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|----------------------------|-------|-------|-------|-------|-------|-------|
| 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 | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
| REVENUE FUND SOURCE | 0 | 0 | 0 | 0 | 0 | 0 |

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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|-----------|---|---|---|---|---|---|
| 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 impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact to the Legislative Affairs Agency.

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852
Division: Administrative Services Date: 2/21/95

Approved By: Pamela A. Varni, Executive Director *Pamela Varni*
Agency: Legislative Affairs Agency Date: 2/21/95

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

CS FOR SENATE BILL NO. 85(JUD) am
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Amended: 3/30/95
Offered: 3/23/95

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL
A BILL

FOR AN ACT ENTITLED

1 "An Act making corrective amendments to the Alaska Statutes as recommended
2 by the revisor of statutes; and providing for an effective date."

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

4 * Section 1. AS 04.11.400(d) is amended to read:

5 (d) The board may approve the issuance or transfer of ownership of a beverage
6 dispensary or restaurant or eating place license without regard to (a) of this section if
7 it appears that the issuance or transfer will encourage the tourist trade by encouraging
8 the construction or improvement of

9 (1) a hotel, motel, resort, or similar business relating to the tourist trade
10 with a dining facility or having kitchen facilities in a majority of its rental rooms and
11 at least a minimum number of rental rooms required according to the population of the
12 established village, incorporated city, unified municipality, or population area
13 established under (a) of this section in which the facility will be located, as follows:

14 (A) 10 rental rooms if the population is less than 1,501;

1 (B) 20 rental rooms if the population is 1,501 - 2,500
2 [BETWEEN 1,501 AND 2,500];

3 (C) 25 rental rooms if the population is 2,501 - 5,000
4 [BETWEEN 2,501 AND 5,000];

5 (D) 30 rental rooms if the population is 5,001 - 15,000
6 [BETWEEN 5,001 AND 15,000];

7 (E) 35 rental rooms if the population is 15,001 - 25,000
8 [BETWEEN 15,001 AND 25,000];

9 (F) 40 rental rooms if the population is 25,001 - 50,000
10 [BETWEEN 25,001 AND 50,000]; and

11 (G) 50 rental rooms if the population is greater than 50,000; or
12 (2) an airport terminal.

13 * Sec. 2. AS 04.11.498(b) is amended to read:

14 (b) If a majority of the voters of an established village vote "yes" on the
15 question set out in (a) of this section, and the sale of alcoholic beverages, or the sale
16 and importation of alcoholic beverages, has been previously prohibited in the
17 established village in accordance with AS 04.11.490 or 04.11.496, a person, beginning
18 on the first day of the month following certification of the results of the election, may
19 not knowingly possess an alcoholic beverage in the established village, unless the
20 alcoholic beverage is wine to be used for bona fide religious purposes based on tenets
21 or teachings of a church or religious body, is limited in quantity to the amount
22 necessary for religious purposes, and is dispensed only for religious purposes, by a
23 person recognized by the church or religious body as authorized to dispense the wine.
24 The board shall be notified immediately after certification of the results of the election
25 and thereafter may not issue, renew, or transfer between holders or locations a license
26 for licensed premises located within the perimeter of the established village [AS
27 DEFINED IN AS 04.21.080(b)].

28 * Sec. 3. AS 04.11.498(c) is amended to read:

29 (c) If a majority of the voters of an established village vote "yes" on the
30 question set out in (a) of this section and the sale of alcoholic beverages, or the sale
31 and importation of alcoholic beverages, has not been previously prohibited in the

1 established village in accordance with AS 04.11.490 or 04.11.496, a person, beginning
2 90 days after certification of the results of the election, may not knowingly possess an
3 alcoholic beverage in the established village, unless the person is licensed by the board
4 or the alcoholic beverage is wine to be used for bona fide religious purposes based on
5 tenets or teachings of a church or religious body, is limited in quantity to the amount
6 necessary for religious purposes, and is dispensed only for religious purposes by a
7 person recognized by the church or religious body as authorized to dispense the wine.
8 The board shall be notified immediately after certification of the results of the election
9 and thereafter may not issue, renew, or transfer between holders or locations a license
10 for licensed premises located within the perimeter of the established village [AS
11 DEFINED IN AS 04.21.080(b)]. Licenses that may not be renewed because of a local
12 option election held under this section are void 90 days after the results of the election
13 are certified. A license that will expire during the 90 days after the results of a local
14 option election under this section are certified may be extended until it is void under
15 this subsection, by payment of a prorated portion of the biennial license fee.

16 * Sec. 4. AS 05.12.010(a) is amended to read:

17 (a) A person may not use, display, or publish the symbol of the Arctic Winter
18 Games, consisting of the triple circle symbol and ulu combination, for commercial
19 purposes or private gain without the written authorization of the Arctic Winter Games
20 International Committee [INCORPORATED].

21 * Sec. 5. AS 05.12.010(b) is amended to read:

22 (b) A person may not use, display, or publish any name, title, or device that
23 tends to indicate that the person is affiliated with or supported by the Arctic Winter
24 Games without the written authorization of the Arctic Winter Games International
25 Committee [INCORPORATED].

26 * Sec. 6. AS 06.45.060(7)(D) is amended to read:

27 (D) in shares or accounts of savings and loan associations or
28 mutual savings banks that are insured by the [FEDERAL SAVINGS AND
29 LOAN INSURANCE CORPORATION OR THE] Federal Deposit Insurance
30 Corporation;

31 * Sec. 7. AS 08.06.030(a) is amended to read:

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1 (a) A person is qualified to receive a license to practice acupuncture if the
2 person

3 (1) is of good moral character;

4 (2) is at least 21 years of age;

5 (3) either

6 (A) has completed a course of study consistent with the core
7 curriculum and guidelines of the National Council of Acupuncture Schools and
8 Colleges at a school of acupuncture approved by the department; or

9 (B) is licensed to practice acupuncture in another jurisdiction
10 that has acupuncture licensing requirements equivalent to those of this state;

11 (4) is qualified for certification by the National Commission
12 [COUNCIL] for the Certification of Acupuncturists as a diplomate in acupuncture;

13 (5) does not have a disciplinary proceeding or unresolved complaint
14 pending at the time of application; and

15 (6) has not had a license to practice acupuncture suspended or revoked
16 in this state or in another jurisdiction.

17 * Sec. 8. AS 08.45.030 is amended to read:

18 Sec. 08.45.030. ISSUANCE OF LICENSE. The division shall issue a license
19 to practice naturopathy to an applicant who provides proof satisfactory to the division
20 that the applicant has received a degree from an accredited four-year college or
21 university, and

22 (1) on or before December 1, 1987, has graduated from a school of
23 naturopathy that required four years of attendance at the school and after graduation
24 has received a license in another state after passing an examination for licensure in that
25 state and is licensed by a state at the time of application; or

26 (2) after December 31, 1987, has

27 (A) graduated from a school of naturopathy that required four
28 years of attendance at the school and at the time of graduation the school was
29 accredited or a candidate for accreditation by the Council on Naturopathic
30 Medical Education or a successor organization recognized by the United States
31 Department of Education; and

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(B) passed the Naturopathic Physicians Licensing Examination
[SPONSORED BY THE AMERICAN ASSOCIATION OF NATUROPATHIC
PHYSICIANS].

* Sec. 9. AS 08.45.035(a) is amended to read:

(a) The division shall issue a temporary license to practice naturopathy to an applicant who has applied for and is qualified to take the next Naturopathic Physicians Licensing Examination offered after the date of application and provides proof satisfactory to the division that the applicant

(1) meets the requirements of AS 08.45.030(2)(A); and

(2) has not previously failed the Naturopathic Physicians Licensing Examination [SPONSORED BY THE AMERICAN ASSOCIATION OF NATUROPATHIC PHYSICIANS].

Some of

* Sec. 10. AS 08.48.191(b) is amended to read:

(b) A person holding a certificate of registration authorizing the person to practice engineering in a state, territory, or possession of the United States, the District of Columbia, or a foreign country, that, in the opinion of the board meets the requirements of this chapter, based on verified evidence, may, upon application, be registered in accordance with regulations of the board. A person holding a certificate of qualification issued by the National Council of Examiners for Engineering and Surveying [ENGINEERING EXAMINERS COMMITTEE ON NATIONAL ENGINEERING CERTIFICATION] may, upon application, be registered in accordance with the regulations of the board.

new name

* Sec. 11. AS 08.80.120 is amended to read:

Sec. 08.80.120. GRADING AND CONTENT OF EXAMINATION. To pass the state pharmacy examination, each applicant shall attain a general average of not less than 75 percent and a grade of not less than 60 percent in any one category of the National Association of Boards [BOARD] of Pharmacy Standard Examinations for licensure or an equivalent examination given by the board.

omit name

* Sec. 12. AS 09.38.015(c) is amended to read:

(c) Property of the state, a [GENERAL LAW OR HOME RULE] municipality, and of the Alaska Municipal Bond Bank Authority or another state public corporation

all municipalities are general law or home rule

1 is exempt.

2 * Sec. 13. AS 09.38.500(1) is amended to read:

3 (1) "burial plot" means a parcel of real estate that is used for burial of
4 human remains and that [WHICH] is located within an area designated for cemetery
5 purposes by the state or a [GENERAL LAW OR HOME RULE] municipality;

6 * Sec. 14. AS 13.26.344(l) is amended to read:

7 (l) In the statutory form power of attorney, the language conferring general
8 authority with respect to health care services [,] shall be construed to mean that, as to
9 the health care of the principal, whether to be provided in the state or elsewhere, the
10 principal authorizes the agent to

11 (1) have access to and disclose to others medical and related
12 information and records;

13 (2) consent or refuse to consent to medical care or relief for the
14 principal from pain, but the agent may not authorize the termination of life-sustaining
15 procedures;

16 (3) take all steps necessary to enforce a properly executed declaration
17 under AS 18.12;

18 (4) consent or refuse to consent to the principal's psychiatric care, but
19 the consent does not authorize a voluntary commitment or placement in a mental
20 health treatment facility, convulsive [CONCLUSIVE] or electric-shock therapy,
21 psychosurgery, sterilization, or an abortion,

22 (5) arrange for care or lodging of the principal in a hospital, nursing
23 home, or hospice;

24 (6) grant releases to health care professionals or health care institutions;

25 (7) hire, discharge, or compensate an attorney, accountant, expert
26 witness, or assistant when the agent considers the action to be desirable for the proper
27 execution of the powers described in this subsection; and

28 (8) do any other act or acts [,] that the principal can do through an
29 agent [,] and that the agent considers desirable or necessary to provide for the
30 principal's physical or mental well-being [WELL BEING].

31 * Sec. 15. AS 16.10.294(f) is amended to read:

1 (f) A person affected by an order issued under AS 16.10.265 - 16.10.296
2 [THIS CHAPTER] may seek equitable relief preventing the commissioner from
3 enforcing the order.

4 * Sec. 16. AS 16.10.294(g) is amended to read:

5 (g) In an action instituted in the superior court by the commissioner or a
6 representative of the commissioner, a person acting in the capacity of a fish processor
7 or primary fish buyer in violation of AS 16.10.265 - 16.10.296 [THIS CHAPTER] may
8 be enjoined from acting as a fish processor or primary fish buyer.

9 * Sec. 17. AS 18.05 is amended by adding a new section to read:

10 Sec. 18.05.061. PENALTY FOR VIOLATION. A person who violates a
11 provision of AS 18.05.040 - 18.05.046 or a regulation adopted under AS 18.05.040 -
12 18.05.046 is guilty of a misdemeanor and, upon conviction, is punishable by a fine of
13 not more than \$500, or by imprisonment for not more than one year. Each day that
14 a person continues a violation is a separate offense.

15 * Sec. 18. AS 18.65.705(4) is amended to read:

16 (4) has not been convicted, within the five years immediately preceding
17 the application, of, and is not currently charged under a complaint, information,
18 indictment, or presentment with, any of the following misdemeanor offenses or similar
19 laws of another jurisdiction:

20 (A) AS 11.41.230, 11.41.250, 11.41.270;

21 (B) AS 11.46.315, 11.46.320, 11.46.330, 11.46.430, 11.46.484;

22 (C) AS 11.51.130;

23 (D) AS 11.56.330, 11.56.340, 11.56.850, 11.56.880, 11.56.545,

24 11.56.700, 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800, 11.56.805;

25 (E) AS 11.61.110, 11.61.120, 11.61.210, 11.61.220, 11.61.240;

26 or

27 (F) AS 11.71.050, 11.71.060;

28 * Sec. 19. AS 19.40.200(b) is amended to read:

29 (b) The prohibition on disposal of state land under (a) of this section does not
30 apply to a disposal

31 (1) to a licensed public utility or a licensed common carrier under

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1 AS 38.05.810(e);

2 (2) for the reauthorization of leases that were in effect on January 1,
3 1994, for nonresidential purposes within the following development nodes:

4 Coldfoot:

5 Township 28 North, Range 12 West, Fairbanks Meridian

6 Sections 9 - 10

7 Sections 15 - 16

8 Yukon River Crossing:

9 Township 13 North, Range 11 West, Fairbanks [UMIAT]

10 Meridian

11 Section 26;

12 (3) for nonresidential development within the following development
13 node:

14 Deadhorse:

15 Township 10 North, Range 14 East, Umiat Meridian

16 Sections 24 - 25

17 Township 10 North, Range 15 East, Umiat Meridian

18 Section 19

19 Section 30; or

20 (4) necessary for

21 (A) an oil and gas lease under AS 38.05.180;

22 (B) exploration, development, production, or transportation of
23 oil and gas north of 68 degrees north latitude; or

24 (C) a state lease or materials sale for

25 (i) exploration, development, production, or
26 transportation of oil and gas;

27 (ii) reconstruction or maintenance of state highways; or

28 (iii) construction or maintenance of airports.

29 * Sec. 20. AS 21.21.230 is amended to read:

30 Sec. 21.21.230. SAVINGS AND LOAN. To the extent that the account is
31 insured by the Federal Deposit Insurance Corporation [FEDERAL SAVINGS AND

1 LOAN INSURANCE CORPORATION], an insurer may invest in share or savings
2 accounts of savings and loan and building and loan associations.

3 * Sec. 21. AS 21.21.600(19) is amended to read:

4 (19) "savings and loan" means an organization organized under the laws
5 of a state that has qualified for the insurance protection provided by the Federal
6 Deposit Insurance Corporation [FEDERAL SAVINGS AND LOAN INSURANCE
7 CORPORATION];

8 * Sec. 22. AS 39.50.020(a) is amended to read:

9 (a) A judicial officer, commissioner, chair or member of a state commission
10 or board specified in AS 39.50.200(b), a person hired or appointed as head or deputy
11 head of, or director of a division within, a department in the executive branch, a
12 person appointed as assistant to the governor, a state investment officer and the state
13 comptroller in the Department of Revenue, and a municipal officer, shall file a
14 statement giving income sources and business interests, under oath and on penalty of
15 perjury, within 30 days after taking office as a public official. Candidates for state
16 elective office other than a candidate who is subject to AS 24.60 shall file such a
17 statement with the director of elections at the time of filing a declaration of candidacy
18 or within 30 days of the filing of a nominating petition, or within 30 days of becoming
19 a candidate by any other means. Candidates for elective municipal office shall file
20 such a statement at the time of filing a nominating petition, declaration of candidacy,
21 or other required filing for the elective municipal office. Refusal or failure to file
22 within the time prescribed shall require that the candidate's filing fees, if any, and
23 filing for office be refused or that a previously accepted filing fee be returned and the
24 candidate's name removed from the filing records. A statement shall also be filed by
25 public officials no later than April 15 or 15 days after the person files a federal income
26 tax return in each following year, whichever comes first. Persons who are [, ON OR
27 AFTER DECEMBER 11, 1974, WERE] members of boards or commissions not named
28 in AS 39.50.200(b) are not required to file financial statements.

29 * Sec. 23. AS 41.09.010(h) is amended to read:

30 (h) Amounts due the permanent fund under AS 37.13.010 shall [MAY] be
31 calculated before the application of a credit extended under (a) of this section.

1 no longer included

*Correct
a typo
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1 * Sec. 24. AS 42.40.750(c) is amended to read:

2 (c) The railroad labor relations agency shall determine who is eligible to vote
3 in an election held under this section and shall adopt regulations [ESTABLISH
4 RULES] governing the election. In an election in which none of the choices on the
5 ballot receives a majority of the votes cast, a runoff election shall be conducted, the
6 ballot providing for selection between the two choices receiving the largest number of
7 valid votes cast in the election. If an organization receives the majority of the votes
8 cast in the election, it shall be certified by the railroad labor relations agency as
9 exclusive representative of all the employees in the bargaining unit. An election may
10 not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid
11 election has been held within the preceding 12 months.

12 * Sec. 25. AS 44.19.155(d) is amended to read:

13 (d) Each member of the council shall select one person to serve as a
14 permanent alternate at meetings of the council. If a member of the council is unable
15 to attend, the member shall advise the alternate who may attend and act in the place
16 of the member. The alternate for a public member appointed [AFTER JULY 9, 1978]
17 under (a)(1) of this section shall, at the time of the alternate's designation and
18 throughout the period of service as a permanent alternate, be the mayor or member of
19 the assembly or council of a municipality within the region from which the permanent
20 member is appointed. The alternate for the director of the office of management and
21 budget, serving under (a)(2)(A) of this section, shall be the director's designee within
22 that office. The alternate for a designated member serving under (a)(2)(B) - (G) of
23 this section shall be a deputy commissioner of the department or the director of a
24 division in the department. The names of alternates shall be filed with the council.

25 * Sec. 26. AS 44.21.501(a)(8) is amended to read:

26 (8) assist the state's bargaining representative [THE DIVISION OF
27 LABOR RELATIONS] in collective bargaining negotiations between the state and
28 employee bargaining organizations to ensure that each collective bargaining agreement
29 negotiated by the state ensures equal employment opportunity;

no longer exists

30 * Sec. 27. AS 44.33.119(6) is amended to read:

31 (6) ensure that the visitors' [VISITORY] experience in the state is and

1 continues to be satisfactory and leads to word-of-mouth advertising and return visits
2 to the state;

3 * Sec. 28. AS 44.62.160(a) is amended to read:

4 (a) The Alaska Administrative Register shall be published quarterly on the first
5 day of the month [, BEGINNING IN A MONTH TO BE DESIGNATED BY THE
6 DEPARTMENT OF LAW, BUT NOT LATER THAN OCTOBER 1969]. All
7 regulations required to be submitted under AS 44.62.040 that are filed by the first day
8 of the month preceding publication shall be published in the register for that quarter.

9 * Sec. 29. AS 46.14.990 is amended by adding new paragraphs to read:

10 (26) "commissioner" means the commissioner of environmental
11 conservation;

12 (27) "department" means the Department of Environmental
13 Conservation.

14 * Sec. 30. AS 47.10.080(b)(6) is amended to read:

15 (6) in addition to an order under (1) - (5) of this subsection, if the
16 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or
17 11.71.040(a)(4), order the minor to perform 50 hours of community service; for
18 purposes of this paragraph, "community service" includes work

19 (A) defined as community service under [ON A PROJECT
20 IDENTIFIED IN] AS 33.30.901; or

21 (B) that, on the recommendation of the city council or
22 traditional village council, would benefit persons within the city or village who
23 are elderly or disabled.

24 * Sec. 31. AS 47.10.097(b) is amended to read:

25 (b) Fingerprint records taken under this section are not subject to
26 AS 47.10.093(a) [AS 47.10.090].

27 * Sec. 32. AS 47.10.490(2) is repealed and reenacted to read:

28 (2) "out-of-home care provider" means an agency or person, other than
29 the child's legal parents, with whom a child who is in the custody of the state under
30 AS 47.10.080(b)(3), (c)(1), or (c)(3), 47.10.142, or 47.10.230(c) is currently placed;
31 in this paragraph, "agency or person" includes a foster parent, a relative other than a

1 parent, a person who has petitioned for adoption of the child, and a residential child
2 care facility;

3 * Sec. 33. AS 18.07.111(12); AS 24.20.075; AS 44.33.122, 44.33.124; AS 44.66.010(a)(8),
4 44.66.010(a)(12), 44.66.010(a)(16); and AS 47.30.500(4) are repealed.

5 * Sec. 34. This Act takes effect immediately under AS 01.10.070(c).

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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MEMORANDUM

April 7, 1995

SUBJECT: CSSB 85 (JUD) am
TO: Representative Brian Porter
FROM: Pamela Finley *PF*
Assistant Revisor of Statutes

The following is a sectional analysis for CSSB 85 (JUD) am, the 1995 revisor's bill, which passed the Senate on April 5, 1995 and has been referred to the House Judiciary Committee.

Would you please ask the Chief Clerk to print this memorandum as a supplement to the House Journal so that the public can be aware of the contents of CSSB 85 (JUD) am.

Sections that delete, repeal, or update obsolete provisions: Sections 2, 3, 4, 5, 6, 10, 20, 21, 22, 25, 26, 28, and 33 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, 7, 8, 9, 11, 12, 13, 14, 17, 18, 19, 23, 29, and 31 correct errors or oversights that cannot be corrected editorially.

Sections that improve the form or substance of the law: Sections 15, 16, 24, 27, 30 and 32 propose amendments to improve the form or substance of the statute law of Alaska.

SECTIONAL ANALYSIS

Section 1. AS 04.11.400(d)(1) is a good example of misuse of the word "between," in that it excludes the beginning and ending numbers. This bill section corrects the error by including the beginning and ending numbers.

Sections 2 and 3. These sections delete "as defined in AS 04.21.080(b)" in AS 04.11.498(b) and (c). The definition of "established village" in AS 04.21.080(b) already applies to AS 04.11.498(b) and (c), so the cross-references are superfluous.

Sections 4 and 5. These amendments to AS 05.12.010(a) and (b) reflect the fact that Arctic Winter Games Inc. has changed its name to Arctic Winter Games International Committee.

Representative Brian Porter
April 7, 1995
Page 2

Section 6. According to the Division of Banking, the Federal Savings and Loan Insurance Corporation no longer exists; its duties have been assumed by the Federal Deposit Insurance Corporation. Accordingly, the reference to FSLIC is deleted from AS 06.45.060(7)(D).

Section 7. According to the Division of Occupational Licensing, the "National Council for the Certification of Acupuncturists" does not exist; there is, however, a "National Commission for the Certification of Acupuncturists." This bill section amends AS 08.06.030(a)(4) to reflect that fact. The change was requested by the Department of Law.

Sections 8 and 9. According to the Division of Occupational Licensing, the American Association of Naturopathic Physicians does not sponsor, and is not involved in, examinations for certifications. Accordingly, the reference to this organization is deleted in AS 08.45.030 and 08.45.035. This amendment was requested by the Department of Law.

Section 10. According to the Division of Occupational Licensing, the name of the National Council of Engineering Examiners Committee on National Engineering Certification has been changed to the National Council of Examiners for Engineering and Surveying. This bill section makes that change in AS 08.48.191(b).

Section 11. According to the Division of Occupational Licensing, the proper name for the pharmacy association is the "National Association of Boards [not Board] of Pharmacy." The designation is correct in AS 08.80.110(4), but wrong in AS 08.80.120. This bill section amends AS 08.80.120 to correct the name of the association. The amendment was requested by the Department of Law.

Sections 12 and 13. AS 09.38.015(c) and 09.38.500(1) are amended to delete "general law or home rule" before "municipality." All municipalities in the state are general law or home rule municipalities, so the phrase is redundant.

Section 14. AS 13.26.344(l), which relates to powers of attorney, refers to "conclusive or electric-shock therapy." Clearly "conclusive" should be "convulsive", and this bill section makes that change. This corrects an error in ch. 109, SLA 1988.

Sections 15 and 16. AS 16.10.294(f) and (g) relate to legal actions between the commissioner of labor and a fish processor or primary fish buyer. Note that "commissioner" in this section is defined as the commissioner of labor, AS 16.10.296(1), whereas in other parts of AS 16.10 the "commissioner" is either the commissioner of fish and game or the commissioner of commerce and economic development. See AS 16.05.940, AS 16.10.360, and 16.10.560. Therefore the provisions of AS 16.10.294(f) and (g) can apply only to AS 16.10.265 - 16.10.296 because those are the only sections in AS 16.10 that the commissioner of labor can enforce. Accordingly, the reference to "this chapter" (*i.e.*, AS 16.10) is changed to "AS 16.10.265 - 16.10.296".

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Section 17. This section adds a provision that was erroneously repealed by ch. 130, SLA 1992. Chapter 130, SLA 1992 enacted provisions governing the practice of midwifery in AS 08.65, and repealed certain provisions in AS 18.05, most of which dealt with the practice of lay midwifery. AS 18.65.060, however, provided a penalty for violations of **any** provision of AS 18.05 and regulations adopted thereunder (not just those related to lay midwifery), and therefore should not have been repealed. This section reenacts the provisions of former AS 18.65.060, except that the penalty is limited to violations of AS 18.05.040 - 18.05.046 and regulations adopted under those provisions, which include such things as disease control, transportation of dead bodies, voluntary certification of laboratories, and disclosure and confidentiality of information. The Department of Law believes, and I concur, that a misdemeanor is too severe a penalty for violations of other provisions of AS 18.05, e.g., failure of staff to cooperate with the federal government.

Section 18. This bill section adds unlawful evasion in the first degree (AS 11.56.340) to those misdemeanors that disqualify a person from receiving a concealed handgun permit, if the conviction was within the last five years. Unlawful evasion in the second degree (AS 11.56.350), which is a lesser offense, is currently listed as a disqualifying offense. The only difference between AS 11.56.340 and 11.56.350 is that AS 11.56.340 covers those who are charged with or convicted of felonies, whereas the AS 11.56.350 covers those charged with or convicted of misdemeanors. It makes no sense to disqualify a person who fails to return to official detention while charged with a misdemeanor, but not to disqualify a person who fails to return to official detention while charged with a felony. It is true that the person who violates AS 11.56.340 would be disqualified anyway if he or she were convicted of the underlying felony, and it is true that those charged with felonies are unlikely to be on furloughs, which may explain why AS 11.56.340 was omitted from the list. However, to avoid any possibility of an unequitable result, AS 11.56.340 is added to the list in AS 18.65.705(4).

Section 19. This section amends the legal description for the Yukon River Crossing development node on the Dalton Highway by changing the reference in AS 19.40.200(b) from the Umiat Meridian to the Fairbanks Meridian. The Director of the Division of Land requested this change to correct an error in ch. 50, SLA 1994.

Sections 20 and 21. Because the Federal Savings and Loan Insurance Corporation no longer exists, the reference to it in AS 21.21.230 and 21.21.600 (19) is changed to the Federal Deposit Insurance Corporation. See explanation for Section 6.

Section 22. This bill section removes an obsolete reference to December 11, 1974 that appears in AS 39.50.020(a), the subsection that identifies persons required to file financial statements with the Alaska Public Offices Commission.

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Section 23. AS 41.09.010, which governs exploration incentive credits, was enacted by ch. 39, SLA 1994. In a committee substitute, a "shall" in subsection (h) was changed to "may" due to an error in typing and proofing. The committee did not ask for such a change, nor did the drafter make it, but it appeared in the final anyway. This section returns the language to "shall".

Section 24. Executive Order 77 (1990) required the Alaska labor relations agency to act as the railroad labor relations agency. See AS 23.05.370(a)(6). AS 42.40.750(c) requires the railroad labor relations agency to "establish rules," rather than "adopt regulations," although the latter is the normal language used in the Alaska Statutes. "Rules" was probably used because it was closer to terminology used in federal law. Now that the relevant "rules" are to be made by a general state agency (as opposed to one limited to the railroad), the terminology should be changed to reflect that fact. Accordingly, "adopt regulations" is substituted for "establish rules."

Section 25. The section concerns the Alaska Coastal Policy Council. Because the public members serve only two years under AS 44.19.155(b), the reference to July 9, 1978 is obsolete and therefore is deleted.

Section 26. AS 44.21.501(a)(8) requires the office of equal employment opportunity to assist the division of labor relations in collective bargaining negotiations. According to the Department of Administration, the division of labor relations no longer exists. Therefore, "the state's bargaining representative" is substituted for the reference to the division. This change was requested by the Department of Law.

Section 27. AS 44.33.119 sets the purposes of the Alaska Division of Tourism. Since "visitory" does not appear in our dictionary, the reference in paragraph (6) to a "visitory experience" is changed to "the visitors' experience".

Section 28. This bill section removes an obsolete reference to the date that the first Alaska Administrative Register had to be published.

Section 29. This section adds definitions of "commissioner" and "department" for AS 46.14, which concerns air quality and was enacted in ch. 74, SLA 1993. Early drafts of that Act placed the provisions in an area of the Alaska Statutes that already defined "commissioner" as the commissioner of environmental conservation and "department" as the Department of Environmental Conservation, so additional definitions were not needed. When the provisions were renumbered as the bill made its way through the legislature, we failed to add the appropriate definitions. This bill section corrects that error.

Section 30. This amendment concerns the definition of "community service" in a statute dealing with delinquent minors. The current reference is to work on "a project identified in AS 33.30.901." However, AS 33.30.901 merely defines terms, including the term "community service." To clarify the legislature's intent, the reference is changed to work "defined as community service under AS 33.30.901".

Section 31. Chapter 113, SLA 1994 modified provisions relating to records of minors. AS 47.10.090 (which formerly covered both court and agency records) was rewritten to apply only to court records and AS 47.10.093 (which covers only agency records and includes some provisions that were formerly in AS 47.10.090(a)) was enacted. Unfortunately, ch. 113, SLA 1994 did not amend AS 47.10.097(b), which exempted fingerprint records of minors from the requirement (formerly found in AS 47.10.090(a)) that agency records pertaining to the minor be kept confidential. Since the confidentiality of agency records is now covered by AS 47.10.093(a), rather than AS 47.10.090(a), a conforming amendment to AS 47.10.097(b) is necessary.

Section 32. As currently written, AS 47.10.490(2) defines "out-of-home care provider" as follows:

(2) "out-of-home care provider" means an agency or a person, other than the child's legal parents, with whom the child is currently placed and who is in the custody of the state under AS 47.10.080(b)(3), (c)(1), or (c)(3), 47.10.142, or 47.10.230(c), including a foster parent, a relative other than a parent, a person who has petitioned for adoption of the child, or a residential child care facility;

This could be interpreted to require that the person or agency (instead of the child) be in the custody of the state. The Department of Law therefore suggested that it be rewritten. This section rewrites the definition to clarify that it is the child who must be in the custody of the state, and also to bring the "means and includes" aspect of the definition in line with standard style.

Section 33. This section repeals various provisions; a copy of the statutes to be repealed is attached. The reasons for the proposed repeals are as follows:

AS 18.07.111(12) defines a term ("secretary") that is not used in the chapter.

AS 24.20.075 establishes the Alaska Code Revision Commission, which expired on June 30, 1993 under AS 44.66.010(a)(8). Since the Commission's wind-down year ended on June 30, 1994, I have included AS 24.20.075 and AS 44.66.010(a)(8) in the repealer.

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AS 44.33.122 established the Tourism Coordinating Committee and AS 44.33.124 sets its membership. Under AS 44.66.010(a)(16), it expired on June 30, 1993. Since the Committee's wind-down year ended on June 30, 1994, I have included AS 44.33.122, 44.33.124, and AS 44.66.010(a)(16) in the repealer.

AS 44.66.010(a)(12) is the sunset provision for the Alaska Women's Commission. Executive Order 84 (1993) repealed the Alaska Women's Commission. Therefore, the reference in AS 44.66.010(a)(12) is obsolete.

AS 47.30.500(4) defines "poverty area," a term that is no longer used in the article for which it is defined.

Section 34. This section gives the bill an immediate effective date.

Please let me know if you have any questions or comments about the above.

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95-078.plm

Enclosure

TEXT OF STATUTES REPEALED

AS 18.07.111(12):

(12) "secretary" means the secretary of the United States Department of Health and Human Services.

AS 24.20.075:

Sec. 24.20.075. ALASKA CODE REVISION COMMISSION.

(a) The Alaska Code Revision Commission is established as a permanent commission of the legislature.

(b) The commission consists of two legislators, one from each house, appointed by the presiding officer; three public members who are not employees of the state government, appointed by the legislative council; a designee of the governor, who is an attorney employed by the executive branch of the state government; a designee of the chief justice of the supreme court; and a designee of the Alaska Bar Association appointed by the board of governors of the association. Legislative members serve at the pleasure of the presiding officer, the designee of the governor and the designee of the chief justice serve at the pleasure of the governor and chief justice, respectively; the public members and the designee of the board of governors serve terms of six years each, beginning July 1 and ending on June 30 six years later. Members may be reappointed or redesignated. A vacancy in the membership of the commission occurring other than by expiration of term shall be filled in the same manner as the original appointment but, with regard to the legislative members, the public members, and the board of governors' designee, for the unexpired term only. The term of a member continues until the member's successor is appointed. Members who are not state employees or legislators are entitled to receive the standard per diem and travel allowance provided for members of independent boards and commissions. Legislative members are entitled to receive the regular legislative per diem and travel allowance for days spent on commission business, and members who are state employees are entitled to receive the regular state employees per diem and travel allowance for days spent on commission business. The commission selects its chairman and vice-chairman. The director of legal services for the Legislative Affairs Agency, or the designee of the director, serves as executive secretary for the commission.

(c) The commission shall

(1) examine the statutes of the state and judicial decisions to discover defects and anachronisms in the law;

(2) review and consider proposed changes in the law recommended by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, the Alaska Judicial Council, the Alaska Legislative Council, the supreme court, the state or local bar associations, principal departments, agencies, boards, and commissions of the executive or judicial branch, and committees of the legislative branch;

(3) receive and consider suggestions from the Alaska bench and bar, public officials, organizations, and individuals as to areas of law needing review and remedy;

(4) recommend changes in law needed to eliminate antiquated and inadequate rules of law and to bring the law into harmony with current needs and conditions.

(d) The commission may

(1) hold public hearings and other meetings as necessary throughout the state and shall determine an appropriate quorum for conducting business;

(2) establish one or more subcommissions to assist it in the performance of its duties.

(e) The staff of the Legislative Affairs Agency serves as staff for the commission. Subject to appropriation for the purpose, the commission may request the agency to contract with other agencies or persons for the performance of necessary services.

(f) The commission shall submit its reports and recommendations, and draft legislation as to revision of law, to the legislative council and shall distribute them to the governor, members of the legislature, and the chief justice of the supreme court. Each draft of legislation submitted by the commission shall be accompanied by a sectional analysis. The commission shall prepare the sectional analysis using language that is understandable to a layman.

(g) All branches of state government shall provide information and documents requested by the commission necessary to the accomplishment of its work.

(h) The commission shall make a formal request to the legislative council for funds it considers necessary for the per diem, travel, and contractual expenses of the commission. Funds appropriated to the commission are to be disbursed and accounted for under procedures required by the Legislative Affairs Agency. The commission chairman shall approve all expenditure documents.

AS 44.33.122:

Sec. 44.33.122. ESTABLISHMENT OF TOURISM COORDINATING COMMITTEE.

(a) The Tourism Coordinating Committee is established in the Department of Commerce and Economic Development.

(b) The committee is established to advise the division of tourism and to coordinate the activities of state agencies that affect tourism.

(c) The committee shall

(1) provide a forum to develop interagency goals for visitor attraction and services that are consistent with the public interest and that will provide increased economic benefits to the various regions of the state;

(2) conduct analyses of problems facing development of tourism in the state and develop solutions to those problems by exploring successful models for the development of travel and recreation in other tourism-focused states and nations;

(3) develop, review, and recommend to the governor and commissioners budget requests for tourism development in the various programs of the agencies of the state; and

(4) coordinate the operating programs of state agencies to enhance tourism development efforts.

(d) The committee may hold formal or informal meetings concerned with the responsibilities assigned under this section and with other associated responsibilities. The committee may appoint subcommittees and may consider topics at meetings with less than the entire membership of the committee present (§ 7 ch 78 SLA 1988).

AS 44.33.124:

Sec. 44.33.124. MEMBERSHIP OF THE TOURISM COORDINATING COMMITTEE.

The governor shall appoint the members of the Tourism Coordinating Committee. Members may be appointed from the operational level of state agencies and may include representatives from the following:

- (1) Office of the Governor (office of management and budget, international trade);
- (2) Department of Commerce and Economic Development (tourism, business development);
- (3) Department of Community and Regional Affairs;
- (4) Department of Education (state museums);
- (5) Department of Environmental Conservation;
- (6) Department of Fish and Game (sport fish, habitat, fisheries rehabilitation, enhancement, and development);
- (7) Department of Labor;
- (8) Department of Natural Resources (parks, forestry, land and water, and historic preservation);
- (9) Department of Revenue (taxation and revenue considerations);
- (10) Department of Transportation and Public Facilities (airports, ferry system, highways);
- (11) University of Alaska (Center for International Business, School of Management);
- (12) Alaska Railroad.

AS 44.66.010(a)(8), (12), and (16):.

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

(8) Alaska Code Revision Commission (AS 24.20.075) - June 30, 1993; . . .

(12) Alaska Women's Commission - June 30, 1993; . . .

(16) Tourism Coordinating Committee (AS 44.33.122) - June 30, 1993; . . .

AS 47.30.500(4):

(4) "poverty area" means a district in which 15 per cent or more of the population, based on the 1970 census data, falls under 125 per cent of the Community Services Administration poverty guidelines.

PF:klb
95-041.klb

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 10, 1995

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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- KEY BANK BUILDING
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- P.O. BOX 110300-DIMOND COURT HOUSE
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FAX: (907) 465-6735

Honorable Brian Porter, Chair
House Judiciary Committee
Alaska House of Representatives
State Capitol, Room 118
Juneau, Alaska 99801-1182

Re: CSSB 85 (JUD) am

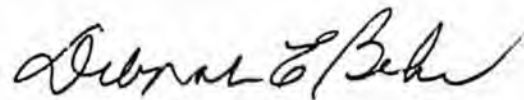
Dear Representative Porter:

The Department of Law has reviewed CSSB 85 (JUD) am (1995 Revisor's Bill) and find no legal problems. The bill makes important technical revisions to improve the accuracy of the Alaska statutes. We believe that all of the changes proposed are well within the scope of traditional revisor's bills offered under AS 01.05.036.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Deborah E. Behr
Assistant Attorney General
and Regulations Attorney

DEB:cl

cc: Pam Finley
Dave Dierdorff