

**SB**

**15**

**SFIN**

**FILE**

# FISCAL NOTE

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. SB15** | \_\_\_\_\_

Revision Date (Note if correction) \_\_\_\_\_ Dept. Affected Office of the Governor  
 Title "An Act relating to civil actions" BRU Human Rights Commission  
 Component \_\_\_\_\_

Sponsor Senator Taylor  
 Requester Senate Finance Component Serial No. 1

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	59.6	61.4	63.4	65.3	67.3	69.3
Travel						
Contractual						
Supplies	0.2					
Equipment	2.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>62.3</b>	<b>61.4</b>	<b>63.4</b>	<b>65.3</b>	<b>67.3</b>	<b>69.3</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	63.2	61.4	63.4	65.3	67.3	69.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>62.3</b>	<b>61.4</b>	<b>63.4</b>	<b>65.3</b>	<b>67.3</b>	<b>69.3</b>

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

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

As a result of this bill, the Commission expects people will choose to file with the agency instead of filing in court, and will be referred to the agency more often by members of the private bar. While difficult to estimate, the Commission anticipates an increase in complaint filings of approximately 15%. In order to avoid unfair delay in the processing of these additional cases, the Commission will need to hire another investigator.

Prepared by Paula M. Haley, Executive Director *Paula M. Haley* Phone 276-7474  
 Division HUMAN RIGHTS COMMISSION Date 1/26/98  
 Approved by David Ramseur, Dep. Chief of Staff *D. Ramseur* Date \_\_\_\_\_  
 Agency Office of the Governor

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# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: Mandatory Arbitration BRU: Trial Courts  
 Component: \_\_\_\_\_  
 Sponsor: Sen. Taylor  
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	464.4	464.4	464.4	464.4	464.4	464.4
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	464.4	464.4	464.4	464.4	464.4	464.4

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (						
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Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	464.4	464.4	464.4	464.4	464.4	464.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	464.4	464.4	464.4	464.4	464.4	464.4

Estimate of any current year (FY 97) cost: None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: C. S. Christensen III, Staff Counsel  
 Agency: Alaska Court System

Phone: 264-8228  
 Date: 03/12/97

Approved by: Stephanie J. Cole, Acting Administrative Director  
 Agency: Alaska Court System

Date: 03/12/97

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Alaska Court System  
Fiscal Analysis  
SB 15

Section 1 of SB 15 requires all tort claims of \$100,000 or less to be submitted to non-binding arbitration. A total of 1520 tort claims were filed in superior and district court in FY 96 (this note assumes that SB 15 will not apply to small claims cases). The Alaska Judicial Council estimates that 85% of those, or 1292, are for \$100,000 or less.

Arbitrators in Anchorage who are attorneys or former judges typically charge \$150 - \$175 per hour for their services. Although non-attorney arbitrators in Anchorage typically charge around \$100 per hour, there are few, if any, such arbitrators that work with tort cases. The American Arbitration Association, (which is the primary arbitration association and the one that most arbitrators are affiliated with) works with 81 arbitrators in Alaska. Of the 46 who are non-attorneys, none arbitrate tort cases. Because of the lack of non-attorney arbitrators available to handle tort cases, this note assumes that arbitration services will be provided by attorneys and retired judges. However, at some point non-attorneys will presumably be available to arbitrate tort cases and so this note has been figured based on the lower \$150 per hour rate even though it may average more than that initially.

The time required for most tort arbitration varies between 1 and 5 days. However, because the typical case can be handled in around 2 days, this note assumes 16 hours per case. At \$150 per hour, this results in an estimate of \$2400 per case. This note further assumes that there will be 2 litigants per case (2584 total) and that \$15 will be indigent (387).

Note that 95% of all tort cases already settle before trial, and thus arbitration will not appreciably reduce court costs for those cases. The cases that do go to trial are those in which after full discovery, the parties still can not agree on the value a jury will put on a claim. Those cases are unlikely to settle as a result of an arbitrator's opinion rendered early in the process. Thus this section will probably not reduce the state's costs of running the civil justice system.

Alaska Court System  
Fiscal Analysis  
SB 15

Contractual Services

Cost of mandatory arbitration for indigent parties. This fiscal note assumes that 1,292 cases fall within the \$100,000 limit of this legislation. With 2 litigants in each case, there are 2,584 litigants, of which 15% or 387 are assumed to be indigent. It is further assumed that each case will require 16 hours of arbitration at a cost of \$150 an hour. The total cost of each case is \$2,400 and the cost per indigent litigant is \$1,200.

\$464,400

# FISCAL NOTE

2  
 Bill Version: SB15  
 (S) Publish Date: 3/13/97

**STATE OF ALASKA  
 1997 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "... to punitive damages... related to employ-  
ment; ... to arbitration in a civil action; amending Rules 79(b)..." BRU: Criminal Division/Civil Division  
 Sponsor: Senator Taylor Component: Criminal Division  
 Requester: Senate Judiciary Committee COMPONENT SERIAL NO. 2085/2087

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

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	83.8	83.8	83.8	83.8	83.8	83.8
TRAVEL	1.1	1.1	1.1	1.1	1.1	1.1
CONTRACTUAL	350.0	350.0	350.0	350.0	350.0	350.0
SUPPLIES	1.6	1.6	1.6	1.6	1.6	1.6
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	179.0	179.0	179.0	179.0	179.0	179.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
1007 Interagency Receipts	257.5	257.5	257.5	257.5	257.5	257.5
<b>TOTAL</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>

Estimate of any current year (FY97) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

SB 15 would require mandatory arbitration for all personal injury, death, or property damage cases where the amount of controversy is \$100,000 or less, with certain limited exceptions. The bill would also cap punitive damages for actions against an employer to recover damages for an unlawful employment practice prohibited by AS 18.80.220.

While the second change would have no impact on the Department of Law, the requirement for mandatory arbitration would cause new costs. The department anticipates that approximately 100 cases per year would require mandatory arbitration: 65 tort claims, 30 prisoner litigation cases, and 5 cases in other categories, primarily environmental claims. This estimate is based on the number of cases the department currently has where claims for damages are \$100,000 or less. If future plaintiffs claim damages greater than \$100,000, they could avoid the effect of the bill and the number of cases going to mandatory arbitration could be less.

Prepared by: Joan M. Kasson *Joan M. Kasson*  
 Division: Administrative/Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General  
 Agency: Department of Law

Phone: 465-5370  
 Date: 3/11/97  
 Date: 3/11/97

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ANALYSIS CONTINUATION:

Each case going to arbitration would require, on average, approximately 20 hours of attorney time specifically to prepare for and attend the arbitration hearing, in addition to the time ordinarily spent preparing the case (20 hours @ \$87/hr, or \$1,740). In addition, witness fees and costs could be expected to be approximately \$1,500 per case. The bill does not specify who would pay the cost of arbitration, and our estimate of costs assumes the state would be required to pay one-half of the arbitrator's fee, estimated at \$150/hr for 25 hours. These cost estimates of \$5,115 per case are conservative. Medical cases, for example, could be expected to involve considerably more in-house attorney time and increased costs for expert witnesses.

The estimated cost for mandatory arbitration would be offset by any savings from cases settling at the arbitration level, and not proceeding to trial. As a practical matter, very few of these types of cases go to trial. Most are either won or lost on motion practice, or settled prior to trial. An average of three tort cases, where the amount in controversy is \$100,000 or less, actually proceed to trial each year, and if all are assumed to be settled at the arbitration level, a potential savings of \$75,000 is possible (\$25,000 per case). This potential savings is reflected in our cost estimate.

The cost estimate is based on the department's standard attorney cost schedule (\$87/hour) and includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Witness and arbitrator costs are included separately.

	<u># cases</u>	<u>cost/case</u>	<u>total</u>	
<b>GENERAL LEGAL SERVICES</b>				
<u>Special Litigation (torts)</u>				
Department of Law attorney time	65	\$1,740	\$113,100	
Witness costs/fees		\$1,500	\$97,500	
Arbitrator cost/fees		<u>\$1,875</u>	<u>\$121,875</u>	
Total		\$5,115	\$332,475	
Estimated potential savings	3	(\$25,000)	<u>(\$75,000)</u>	
			<u>\$257,475</u>	IAR
<u>Other, non-tort, claims for damages</u>				
Department of Law attorney time	5	\$1,740	\$8,700	
Witness costs/fees		\$1,500	\$7,500	
Arbitrator cost/fees		<u>\$1,875</u>	<u>\$9,375</u>	
Total		\$5,115	\$25,575	GF
<b>CRIMINAL DIVISION</b>				
<u>Prisoner litigation cases</u>				
Department of Law attorney time	30	\$1,740	\$52,200	
Witness costs/fees		\$1,500	\$45,000	
Arbitrator cost/fees		<u>\$1,875</u>	<u>\$56,250</u>	
Total		\$5,115	\$153,450	GF
TOTAL DEPARTMENT OF LAW	<u>100</u>		<u>\$436,500</u>	

# FISCAL NOTE

No. 3  
 Bill Verson: CSSB 15 (Jud)  
 (S) Publish Date: 3-24-97

STATE OF ALASKA  
 1997 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: ... to civil actions; ... to motor vehicle liability BRU: Criminal Division/Civil Division  
insurance and bonds; amending ... Rules of Civil Procedure ... Component: Criminal Division  
 Sponsor: Senator Taylor General Legal Services  
 Requester: Senate Judiciary Committee COMPONENT SERIAL NO. 2085/2087

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

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	83.8	83.8	83.8	83.8	83.8	83.8
TRAVEL	1.1	1.1	1.1	1.1	1.1	1.1
CONTRACTUAL	350.0	350.0	350.0	350.0	350.0	350.0
SUPPLIES	1.6	1.6	1.6	1.6	1.6	1.6
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	179.0	179.0	179.0	179.0	179.0	179.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
1007 Interagency Receipts	257.5	257.5	257.5	257.5	257.5	257.5
<b>TOTAL</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>	<b>436.5</b>

Estimate of any current year (FY97) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

This bill amends Title 9, the Alaska Code of Civil Procedure; AS 18.80.225, relating to punitive damages for unlawful employment practices; AS 22.15.030(a), relating to the jurisdiction of the district court; AS 21.06, relating to the responsibilities of the Division of Insurance; AS 21.36, relating to insurance claim settlement practices; AS 28.22, relating to motor vehicle liability insurance; and a number of the Rules of Court to provide various changes intended to bring about reforms in the manner in which the state's civil justice system handles personal injury claims. The Judiciary Committee Substitute is intended to decrease the costs of resolving cases, discourage frivolous litigation, promote fair compensation for injured parties, and promote the predictability of outcomes in civil litigation.

Among the changes proposed in the bill are limits on punitive damages, clarification that people who intentionally hurt others will be held liable for their fair share of the harm, the establishment of an alternative dispute resolution project to facilitate resolution of cases without the expense of trial, streamlined district court

Prepared by: Joan M. Kasson *Joan M. Kasson*  
 Division: Administrative Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General *Bruce M. Botelho*  
 Agency: Department of Law

Phone: 465-5370  
 Date: 3/17/97  
 Date: 3/17/97

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ANALYSIS CONTINUATION:

procedures and changes in superior court procedures intended to decrease overall litigation expense, and changes in the interest rate on judgments and decrees and changes in court procedures designed to encourage early settlement and payment of damages.

CSSB 15 (JUD) would also require mandatory arbitration for all personal injury, death, or property damage cases where the amount of controversy is \$100,000 or less, with certain limited exceptions.

The Department of Law anticipates that some costs would be incurred for payment of the state's share of the alternative dispute resolution project, and those increased costs would probably be offset by savings due to the streamlining of court procedures. However, the requirement for mandatory arbitration would cause new costs. The department anticipates that approximately 100 cases per year would require mandatory arbitration: 65 tort claims, 30 prisoner litigation cases, and 5 cases in other categories, primarily environmental claims. This estimate is based on the number of cases the department currently has where claims for damages are \$100,000 or less. If future plaintiffs claim damages greater than \$100,000, they could avoid the effect of the bill and the number of cases going to mandatory arbitration could be less.

Each case going to arbitration would require, on average, approximately 20 hours of attorney time specifically to prepare for and attend the arbitration hearing, in addition to the time ordinarily spent preparing the case (20 hours @ \$87/hr, or \$1,740). In addition, witness fees and costs could be expected to be approximately \$1,500 per case. The bill does not specify who would pay the cost of arbitration, and our estimate of costs assumes the state would be required to pay one-half of the arbitrator's fee, estimated at \$150/hr for 25 hours. These cost estimates of \$5,115 per case are conservative. Medical cases, for example, could be expected to involve considerably more in-house attorney time and increased costs for expert witnesses.

The estimated cost for mandatory arbitration would be offset by any savings from cases settling at the arbitration level, and not proceeding to trial. As a practical matter, very few of these types of cases go to trial. Most are either won or lost on motion practice, or settled prior to trial. An average of three tort cases, where the amount in controversy is \$100,000 or less, actually proceed to trial each year, and if all are assumed to be settled at the arbitration level, a potential savings of \$75,000 is possible (\$25,000 per case). This potential savings is reflected in our cost estimate.

The cost estimate is based on the department's standard attorney cost schedule (\$87/hour) and includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Witness and arbitrator costs are included separately.

FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. CSSB 15 (JUD)

ANALYSIS CONTINUATION:

	<u># cases</u>	<u>cost/case</u>	<u>total</u>	
<b>GENERAL LEGAL SERVICES</b>				
<u>Special Litigation (torts)</u>				
Department of Law attorney time	65	\$1,740	\$113,100	
Witness costs/fees		\$1,500	\$97,500	
Arbitrator cost/fees		\$1,875	\$121,875	
Total		<u>\$5,115</u>	<u>\$332,475</u>	
Estimated potential savings	3	(\$25,000)	<u>(\$75,000)</u>	
			<u>\$257,475</u>	IAR
<u>Other, non-tort, claims for damages</u>				
Department of Law attorney time	5	\$1,740	\$8,700	
Witness costs/fees		\$1,500	\$7,500	
Arbitrator cost/fees		\$1,875	\$9,375	
Total		<u>\$5,115</u>	<u>\$25,575</u>	GF
<b>CRIMINAL DIVISION</b>				
<u>Prisoner litigation cases</u>				
Department of Law attorney time	30	\$1,740	\$52,200	
Witness costs/fees		\$1,500	\$45,000	
Arbitrator cost/fees		\$1,875	\$56,250	
Total		<u>\$5,115</u>	<u>\$153,450</u>	GF
TOTAL DEPARTMENT OF LAW	<u>100</u>		<u>\$436,500</u>	

# FISCAL NOTE

No. 4

**STATE OF ALASKA  
1997 LEGISLATIVE SESSION**

Bill Version: CSSB 15 (JUD)

(S) Publish Date: 3-24-97

Revision Date: \_\_\_\_\_  
 Title: An Act relating to civil actions; relating to motor vehicle  
 liability insurance and bonds;  
 Sponsor: Taylor  
 Requestor: \_\_\_\_\_

Department: Commerce and Economic Development  
 BRU: Insurance  
 Component: Insurance  
 COMPONENT SERIAL NO. \_\_\_\_\_ 324

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY01	FY 02	FY 03
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>						
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<b>CHANGE IN REVENUES</b>						
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FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)  
 This bill does not have a fiscal impact on the component.

Prepared by: Marianne K. Burke, Director *[Signature]*  
 Division: Insurance  
 Approved by Commissioner: William L. Hensley *[Signature]*  
 Agency: Commerce and Economic Development

Phone: 465-2515  
 Date: March 14, 1997  
 Date: 3-14-97

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# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. CSSB 15 (JUD)

Revision Date: <u>1/9/98</u>	Dept. Affected: <u>Department of Law</u>
Title: <u>... to civil actions; ... to motor vehicle liability insurance and bonds; amending ... Rules of Civil Procedure ...</u>	BRU: <u>Criminal Division/Civil Division</u>
Sponsor: <u>Senator Taylor</u>	Component: <u>Criminal Justice Litigation/Special Litigation, Environmental Law</u>
Requester: <u>Senate Finance Committee</u>	COMPONENT SERIAL NO. <u>2202/2213, 2092</u>

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	92.8	92.8	92.8	92.8	92.8	92.8
TRAVEL	1.3	1.3	1.3	1.3	1.3	1.3
CONTRACTUAL	352.4	352.4	352.4	352.4	352.4	352.4
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>448.5</b>	<b>448.5</b>	<b>448.5</b>	<b>448.5</b>	<b>448.5</b>	<b>448.5</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	183.2	183.2	183.2	183.2	183.2	183.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
1007 Interagency Receipts	265.3	265.3	265.3	265.3	265.3	265.3
<b>TOTAL</b>	<b>448.5</b>	<b>448.5</b>	<b>448.5</b>	<b>448.5</b>	<b>448.5</b>	<b>448.5</b>

Estimate of any current year (FY98) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

This bill amends Title 9, the Alaska Code of Civil Procedure; AS 18.80.225, relating to punitive damages for unlawful employment practices; AS 22.15.030(a), relating to the jurisdiction of the district court; AS 21.06, relating to the responsibilities of the Division of Insurance; AS 21.36, relating to insurance claim settlement practices; AS 28.22, relating to motor vehicle liability insurance; and a number of the Rules of Court to provide various changes intended to bring about reforms in the manner in which the state's civil justice system handles personal injury claims. The Judiciary Committee Substitute is intended to decrease the costs of resolving cases, discourage frivolous litigation, promote fair compensation for injured parties, and promote the predictability of outcomes in civil litigation.

Among the changes proposed in the bill are limits on punitive damages, clarification that people who intentionally hurt others will be held liable for their fair share of the harm, the establishment of an alternative dispute resolution project to facilitate resolution of cases without the expense of trial, streamlined district court

Prepared by: <u>Joan M. Kasson</u>	Phone: <u>465-5370</u>
Division: <u>Attorney General's Office</u>	Date: <u>1/9/98</u>
Approved by Commissioner: <u>Bruce M. Botelho, Attorney General</u>	Date: <u>1/9/98</u>
Agency: <u>Department of Law</u>	

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CS SB 15 (JUD)

ANALYSIS CONTINUATION:

procedures and changes in superior court procedures intended to decrease overall litigation expense, and changes in the interest rate on judgments and decrees and changes in court procedures designed to encourage early settlement and payment of damages.

CSSB 15 (JUD) would also require mandatory arbitration for all personal injury, death, or property damage cases where the amount of controversy is \$100,000 or less, with certain limited exceptions.

The Department of Law anticipates that some costs would be incurred for payment of the state's share of the alternative dispute resolution project, and those increased costs would probably be offset by savings due to the streamlining of court procedures. However, the requirement for mandatory arbitration would cause new costs. The department anticipates that approximately 100 cases per year would require mandatory arbitration: 65 tort claims, 30 prisoner litigation cases, and 5 cases in other categories, primarily environmental claims. This estimate is based on the number of cases the department currently has where claims for damages are \$100,000 or less. If future plaintiffs claim damages greater than \$100,000, they could avoid the effect of the bill and the number of cases going to mandatory arbitration could be less.

Each case going to arbitration would require, on average, approximately 20 hours of attorney time specifically to prepare for and attend the arbitration hearing, in addition to the time ordinarily spent preparing the case (20 hours @ \$93/hr, or \$1,860). In addition, witness fees and costs could be expected to be approximately \$1,500 per case. The bill does not specify who would pay the cost of arbitration, and our estimate of costs assumes the state would be required to pay one-half of the arbitrator's fee, estimated at \$150/hr for 25 hours. These cost estimates of \$5,235 per case are conservative. Medical cases, for example, could be expected to involve considerably more in-house attorney time and increased costs for expert witnesses.

The estimated cost for mandatory arbitration would be offset by any savings from cases settling at the arbitration level, and not proceeding to trial. As a practical matter, very few of these types of cases go to trial. Most are either won or lost on motion practice, or settled prior to trial. An average of three tort cases, where the amount in controversy is \$100,000 or less, actually proceed to trial each year, and if all are assumed to be settled at the arbitration level, a potential savings of \$75,000 is possible (\$25,000 per case). This potential savings is reflected in our cost estimate.

The cost estimate is based on the department's FY98 standard attorney cost schedule (\$93/hour) and includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Witness and arbitrator costs are included separately.

FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. CSSB 15 (JUD)

ANALYSIS CONTINUATION:

	<u># cases</u>	<u>cost/case</u>	<u>total</u>	
<b>CIVIL DIVISION</b>				
<u>Special Litigation (torts)</u>				
Department of Law attorney time	65	\$1,860	\$120,900	
Witness costs/fees		\$1,500	\$97,500	
Arbitrator cost/fees		\$1,875	\$121,875	
Total		<u>\$5,235</u>	<u>\$340,275</u>	
Estimated potential savings	3	(\$25,000)	(\$75,000)	
			<u>\$265,275</u>	IAR
<u>Environmental Law</u>				
Department of Law attorney time	5	\$1,860	\$9,300	
Witness costs/fees		\$1,500	\$7,500	
Arbitrator cost/fees		\$1,875	\$9,375	
Total		<u>\$5,235</u>	<u>\$26,175</u>	GF
<b>CRIMINAL DIVISION</b>				
<u>Criminal Justice Litigation/Legal Services (prisoner litigation cases)</u>				
Department of Law attorney time	30	\$1,860	\$55,800	
Witness costs/fees		\$1,500	\$45,000	
Arbitrator cost/fees		\$1,875	\$56,250	
Total		<u>\$5,235</u>	<u>\$157,050</u>	GF
TOTAL DEPARTMENT OF LAW	<u>100</u>		<u>\$448,500</u>	